



(27,328)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1919.

No. 573.

LOWER VEIN COAL COMPANY, APPELLANT,

vs.

INDUSTRIAL BOARD OF INDIANA ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR  
THE DISTRICT OF INDIANA.

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1 Pleas of the District Court of the United States for the District of Indiana, Begun and Holden at the United States Court House in the City of Indianapolis, in said District, on the First Tuesday in November, in the Year of Our Lord One Thousand Nine Hundred and Eighteen, Before the Honorable Albert B. Anderson, Judge of said District Court.

No. 278. In Equity.

LOWER VEIN COAL COMPANY

VS.

INDUSTRIAL BOARD OF INDIANA, EDGAR A. PERKINS, KENNETH L. Dresser, and Samuel R. Artman, as Members of Industrial Board of Indiana; Edgar A. Perkins, Samuel R. Artman.

Be it remembered that heretofore, to-wit: at the November Term, 1918, of said Court, on the 12th day of April, 1919, before the Honorable Albert B. Anderson, Judge of said Court, the following proceedings in the above entitled cause were had, to-wit:

Comes now the complainant by Miller, Dailey and Thompson and Davis, Moore, Cooper, Royse and Bogart, its solicitors, and files its bill of complaint herein, in the words and figures following to-wit:

2 In the District Court of the United States for the District of Indiana.

No. —. In Equity.

LOWER VEIN COAL COMPANY, Plaintiff.

VS.

INDUSTRIAL BOARD OF INDIANA, EDGAR A. PERKINS, KENNETH L. Dresser, and Samuel R. Artman, as Members of Industrial Board of Indiana; Edgar A. Perkins, Kenneth L. Dresser, and Samuel R. Artman, Defendants.

*Bill of Complaint.*

To the Honorable Judges of the District Court of the United States for the District of Indiana:

The above named plaintiff brings this, its Bill of Complaint against the above named defendants, and each of them, and shows to this Honorable Court as follows:



1. That the plaintiff, Lower Vein Coal Company, is a corporation organized and existing under and by virtue of the laws of the State of Indiana, and is a resident and citizen of said State of Indiana.

2. That the defendant, Industrial Board of Indiana, is a Board created under and by virtue of an act of the General Assembly of the State of Indiana, approved March 8, 1915, known as "The Indiana Workmen's Compensation Act;" that the defendants, Edgar A. Perkins, Kenneth L. Dresser and Samuel E. Artman, are the duly appointed, qualified and acting members of said Industrial Board of Indiana.

3. Plaintiff avers that the matter in dispute in this cause exceeds exclusive of interest and costs the sum, or value of Three Thousand Dollars.

4. Plaintiff avers that at all times mentioned in this Bill it was engaged in the State of Indiana, in the business of mining and marketing coal; that during said time said plaintiff owned and operated two mines within the State of Indiana and had invested in said State of Indiana, during all that time a sum in excess of Five Hundred Thousand Dollars, and has employed in and about its said business, during all of said time, approximately five hundred men; that all of the men above referred to, as employed by the plaintiff, are employed in its said business in the State of Indiana; that the contracts of hiring, for all of said men, so employed by said plaintiff, were made by the plaintiff with its said employees, within the State of Indiana.

5. Plaintiff alleges that the General Assembly of the State of Indiana, for the year 1915, enacted a statute, which was approved March 8th, 1915, known as the "Indiana Workmen's Compensation Act," which was and is Chapter 106, of the Laws of the General Assembly of the State of Indiana, for the year 1915; that in the year 1917 the General Assembly of the State of Indiana amended certain sections of said act of 1915, by Chapters 63, 81 and 165 of the Acts of the General Assembly of the State of Indiana for 1917; that said Workmen's Compensation Act, as amended, has been continuously in force in the State of Indiana, since the — day of April, 1917, and is now in full force and effect; that a copy of said Workmen's Compensation Act of 1915, as amended by the General Assembly of the State of Indiana, for 1917, for the convenience of the Court, is hereto attached, marked "Exhibit A."

6. Plaintiff alleges that the General Assembly of the State of Indiana, for the year 1919, passed an act which is known as House Bill No. 110, being Chapter — of the Laws of the General Assembly of the State of Indiana, for the year 1919, attempting to amend Sections 5, 8, 9, 13, 14, 15, 18, 22, 23, 25, 31, 36, 37, 38, 39, 42, 43, 45, 46, 47, 48, 50, 51, 56, 58, 63, 65, 68, 69, 70, 73, 74, 75 and

5 76 of said Workmen's Compensation Act; that said amend-  
 atory act known as House Bill 110, being Chapter — of the  
 Laws of the General Assembly of the State of Indiana, was  
 and is in the words and figures following, to wit:

6 *House Bill No. 110.*

Act entitled An Act to amend sections 5, 8, 9, 13, 14, 15, 18, 22,  
 23, 25, 31, 37, 38, 39, 42, 43, 45, 46, 47, 48, 50, 51, 56, 58, 63,  
 65, 68, 69, 70, 73, and 76 of an act entitled "An Act to promote the  
 prevention of industrial accidents; to cause provision to be made for  
 adequate medical and surgical care for injured employees; to estab-  
 lish rates of compensation for personal injuries or death sustained  
 by employees in the course of employment; to provide methods of  
 insuring the payment of such compensation; to create an industrial  
 board for the administration of the act and to prescribe the powers  
 and duties of such board; to abolish the state bureau of inspection  
 and provide for the transfer to said industrial board certain rights,  
 powers and duties of said state bureau of inspection," approved  
 March 8, 1915.

Section 1. Be it enacted by the General Assembly of the State  
 of Indiana, That sections 5, 8, 9, 13, 14, 15, 18, 22, 23, 25, 31, 37,  
 38, 39, 42, 43, 45, 46, 47, 48, 50, 51, 56, 58, 63, 65, 68, 69, 70,  
 73, and 76 of the above entitled act, known as "The Indiana Work-  
 men's Compensation Act," be and the same are hereby amended to  
 read as follows:

Section 5. Every employer who accepts the compensation pro-  
 visions of this act shall insure the payment of compensation to his  
 employees and their dependents in the manner hereinafter provided  
 or procure from the industrial board a certificate authorizing  
 7 him to carry such risk without insurance, and, while such  
 insurance or such certificate remains in force, he or those  
 conducting his business shall be liable to any employee and his de-  
 pendents for personal injury or death, by accident arising out of and  
 in the course of the employment, only to the extent and in the man-  
 ner herein specified.

Section 8. No compensation shall be allowed for an injury or  
 death due to the employee's intentionally self-inflicted injury, his  
 intoxication, his commission of a felony or misdemeanor, his wilful  
 failure or refusal to use a safety appliance, his wilful failure or re-  
 fusel to obey a reasonable written or printed rule of the employer,  
 which has been posted in a conspicuous place, his wilful failure or  
 refusal to perform any statutory duty or to any other wilful miscon-  
 duct on his part. The burden of proof shall be on the defendant.

Section 9. This act, except section 67, shall not apply to casual  
 laborers, as defined in clause (b) of section 76, nor to farm or agri-  
 cultural employees, nor to domestic servants, nor to the employers

of such persons, unless such employees and their employers file with the industrial board their voluntary joint election to be so bound.

Section 13. Whenever an injury or death, for which compensation is payable under this act, shall have been sustained under circumstances creating in some other person than the employer a legal liability to pay damages in respect thereto, the injured employee, or his dependents, in case of death, at his or their option, may claim compensation from the employer or proceed at law against such other person to recover damages or may proceed against both the employer and such other person at the same time, but he or they shall not collect from both; and, if compensation is awarded and accepted under this act, the employer, having paid compensation or having become liable therefor, may collect in his own name or in the name of the injured employee or, in the case of death, in the name of his dependents from the other person in whom legal liability for damages exists, the compensation paid or payable to the injured employee or his dependents.

Section 14. The state, any political division thereof, any municipal corporation, any corporation, partnership or person, contracting for the performance of any work without exacting from the contractor a certificate from the industrial board showing that such contractor has complied with section 68 of this act, shall be liable to the same extent as the contractor for compensation, physician's fees, hospital fees, nurse's charges and burial expenses on account of the injury or death of any employee of such contractor, due to an accident arising out of and in the course of the performance of the work covered by such contract.

Any principal contractor, intermediate contractor, or subcontractor, who shall sub-let any contract for the performance of any work covered by such sub-contract.

That the state, any political division thereof, any municipal corporation, any corporation, partnership, person, principal contractor, intermediate contractor or sub-contractor, paying compensation, physician's fees, hospital fees, nurse's charges, or burial expenses under the foregoing provisions of this section, may recover the amount paid from any person who, independently of such provisions would have been liable for the payment thereof.

Every claim, filed with the industrial board under this section, shall be instituted against all parties liable for payment, and said board, in its award, shall fix the order in which said parties shall be exhausted, beginning with the immediate employer.

Section 15. No contract or agreement, written or implied, no rule, regulation or other device, shall in any manner operate to relieve any employer in whole or in part of any obligation created by this act.

Section 18. The provisions of this act, except sections 3, 4, 10, 11 and 12, shall apply to the state, to all the political divisions thereof, to all municipal corporations within the state, to

persons, partnerships and corporations engaged in mining coal, and to the employees thereof.

Section 22. Unless the employer or his representative shall have actual knowledge of the occurrence of any injury or death at the time thereof or shall acquire such knowledge afterward, the injured employee or his dependents, as soon as practicable after the injury or death resulting therefrom, shall give written notice to the employer of such injury or death.

Unless such notice is given or knowledge acquired within thirty days from the date of the injury or death, no compensation shall be paid until and from the date such notice is given or knowledge obtained. No lack of knowledge by the employer or his representative and no want, failure, defect or inaccuracy of the notice shall bar compensation, unless the employer shall show that he was prejudiced by such lack of knowledge or by such want, failure, defect or inaccuracy of the notice, and then only to the extent of such prejudice.

Section 23. The notice provided for in the preceding section shall state the name and address of the employee, the time, place, nature and cause of the injury or death, and shall be signed by the injured employee or by some one in his behalf or by one or more of the dependents in case of death, or by some person in their behalf. Said notice may be served personally upon the employer, or upon any foreman, superintendent or manager of the employer to whose orders the injured or deceased employee was required to conform or upon any agent of the employer upon whom a summons in civil action may be served under the laws of the state, or may be sent to the employer by registered letter, addressed to his last known residence or place of business.

Section 25. During the first thirty days after an injury the employer shall furnish or cause to be furnished, free of charge to the injured employee, an attending physician, for the treatment of his injuries, and in addition thereto such surgical, hospital and nurse's services and supplies as the attending physician or the industrial board may deem necessary.

And, during the whole or any part of the remainder of the period of disability or impairment resulting from the injury, the employer may continue to furnish such physicians, services and supplies. If, by reason of the nature of the injury or the process of recovery treatment is necessary for a longer period than thirty days, the industrial board may require the employer to furnish such treatment for an additional period, not exceeding thirty days. The refusal of the employee to accept such service and supplies, when so provided by the employer, shall bar the employee from all compensation during the period of such refusal, unless in the opinion of the industrial board, the circumstances justify such refusal.

If, in an emergency or because of the employer's failure to provide such attending physician or such surgical, hospital or nurse's services and supplies, as herein specified, or for other good reason,

a physician, other than that provided by the employer, treats the injured employee within the first thirty days, or necessary and proper surgical, hospital or nurse's services and supplies are procured within said period, the reasonable cost of such service and supplies, subject to the approval of the industrial board, shall be paid by the employer.

Section 31. For injuries in the following schedule the employee shall receive, in lieu of all other compensation on account of said injuries, a weekly compensation of fifty-five per cent of his average weekly wages for the periods stated, for said injuries, respectively, to-wit: (a) Amputations: For the loss by separation, of the thumb sixty weeks, of the index finger forty weeks, of the second finger thirty-five weeks, of the third or ring finger thirty weeks, of the fourth or little finger twenty weeks, of the hand by separation below the elbow joint two hundred weeks, of the arm above the elbow joint two hundred and fifty weeks, of the big toe sixty weeks, of the second toe thirty weeks, of the third toe twenty weeks, of the fourth toe fifteen weeks, of the fifth or little toe ten weeks,

13 of the foot below the knee joint one hundred and fifty weeks, and of the leg above the knee joint two hundred weeks.

The loss of more than one phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two phalanges of a finger shall be considered as the loss of the entire finger. That the loss of not more than one phalange of a thumb or toe shall be considered as the loss of one half of the thumb or toe and compensation shall be paid for one half of the period for the loss of the entire thumb or toe. That the loss of not more than two phalanges of a finger shall be considered as the loss of one half the finger and compensation shall be paid for one half of the period for the loss of the entire finger.

(b) Loss of use: The total, permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss, by separation, of the arm, hand, thumb, finger, leg, foot, toe, or phalange and compensation shall be paid for the same period as for the loss thereof by separation.

(c) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe or phalange compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe or phalange.

(d) For injuries resulting in total permanent disability  
14 five hundred weeks.

(e) For the loss of both hands, or both feet, or the sight of both eyes or any two of such losses in the same accident five hundred weeks.

(f) For the permanent loss of the sight of an eye or its reduction to one tenth of normal vision with glasses one hundred and fifty weeks, and for any other permanent reduction of the sight of any

eye compensation shall be paid for a period proportionate to the degree of such permanent reduction.

(g) For the permanent and complete loss of hearing one hundred weeks.

(h) In all other cases of permanent partial impairment compensation proportionate to the degree of such permanent partial impairment, in the discretion of the industrial board, not exceeding five hundred weeks.

(i) In all cases of permanent disfigurement, which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the industrial board, not exceeding two hundred weeks.

(j) For the injuries causing temporary total disability for work there shall be paid to the injured employee during such total disability, but not including the first seven calendar days thereof a weekly compensation equal to 55% of his average weekly wages for a period not to exceed five hundred weeks.

15 (k) For injuries causing temporary partial disability for work compensation shall be paid to the injured employee during such disability, but not including the first seven calendar days a weekly compensation equal to 55% of the difference between his average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred weeks. In case the partial disability begins after the period of temporary total disability the latter period shall be deducted from the maximum period allowed for partial disability.

(l) No compensation shall be allowed on account injuries producing only temporary total disability to work or temporary partial disability to work for the first seven calendar days of disability resulting from such injuries except the benefits provided for in section 25; but if disability extends beyond that period compensation shall commence with the beginning of the eight days of such disability.

Section 37. When death results from an injury within three hundred weeks, there shall be paid a weekly compensation equal to fifty-five per cent of the deceased's average weekly wages during such remaining part of three hundred weeks as compensation shall not have been paid to the deceased, on account of the injury in

16 equal shares, to all dependents of the employee wholly dependent upon him for support at the time of his death. If the employee leaves dependents only partially dependent upon his earnings for support at the time of his injury, the weekly compensation to those so dependent shall be in the same proportion to the weekly compensation of persons wholly dependent as the average amount contributed weekly by the deceased to such partial dependent bears to his average weekly wages at the time of the injury.

Section 38. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employee.

(a) A wife upon her husband with whom she is living at the time of his death or upon whom the laws of the state impose the obligation of her support at such time.

(b) A husband, who is both physically and financially incapable of self-support, upon his wife with whom he is living at the time of his death.

(c) A child under the age of eighteen years upon the parent with whom he or she is living at the time of the death of such parent.

(d) A child under eighteen years upon a parent with whom he or she may not be living at the time of the death of such parent, but upon whom, at such time, the laws of the state impose the obligation to support such child.

(e) A child over the age of eighteen years who is either physically or mentally incapacitated from earning his or her own support, upon a parent with whom he or she is living at the time of the death of such parent; or upon whom the laws of the state at such time impose the obligation of the support of such child.

As used in this section, the term "child" shall include stepchildren, posthumous children, legally adopted children and acknowledged illegitimate children, but shall not include married children; the term "parent" shall include step-parents and parents by adoption.

In all other cases, the question of total dependency shall be determined in accordance with the fact, as the fact may be at the time of the death, and the question of partial dependency shall be determined in like manner as of the date of the injury. If there is more than one person wholly dependent, the death benefit shall be divided equally among them, and persons partially dependent shall receive not part thereof.

If there is no one wholly dependent and more than one person partially dependent, the death benefit shall be divided among the partial dependents according to the relative extent of their dependency.

The dependency of a widow, widower or child, shall terminate with his or her marriage subsequent to the death of the employee.

The dependence of a child, except a child physically or mentally incapacitated from earning, shall terminate with the attainment of eighteen years of age.

18 Section 39. In all cases of the death of an employee from an injury by an accident arising out of and in the course of his employment under such circumstances that the employee would have been entitled to compensation, if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding one hundred dollars.

Section 42. When so provided in the compensation agreement or in the award of the industrial board, compensation may be paid semi-monthly, or monthly, instead of weekly.



Section 43. After the lapse of twenty-six compensation weeks and the payment in full of twenty-six weeks' compensation, the remainder of the compensation, in unusual cases, upon the agreement of the employer and the employee or his dependents, and the approval of the industrial board, may be redeemed, in whole or in part, by the cash payment, in a lump sum, of the commutable value of the installments to be so redeemed.

The board may, at any time, in the case of permanently disabling injuries of a minor, require that he be compensated by the cash payment in a lump sum of the commutable value of the unredeemed installments of the compensation to which he is entitled.

In all such cases, the commutable value of the future, unpaid installments of compensation shall be the present value thereof  
19 at the rate of three per cent interest compounded annually.

Section 45. The power and jurisdiction of the industrial board over each case shall be continuing, and, from time to time, it may, upon its own motion or upon the application of either party, on account of a change in conditions, make such modification or change in the award, ending, lessening, continuing or extending the payments, previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in this act.

Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder.

The board shall not make any such modification upon its own motion nor shall any application therefor be filed by either party after the expiration of one year from the termination of the compensation period fixed in the original award, made either by an agreement or upon hearing. The board may at any time correct any clerical error or mistake of fact in any finding or award.

Section 46. When the aggregate payments of compensation, awarded by agreement or upon hearing to an employee or dependent under eighteen years of age, do not exceed one hundred dollars, the  
20 payment thereof may be made directly to such employee or dependent, except when the industrial board shall order otherwise.

Whenever the aggregate payments of compensation, due to any person under eighteen years of age, exceed one hundred dollars, the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or to a parent upon the order of the industrial board. The payment of compensation, due to any person eighteen years of age or over, may be made directly to such person.

Section 47. If an injured employee or a dependent is mentally incompetent or a minor at the time when any right or privilege accrues to him under this act, his guardian or trustee may, in his behalf, claim and exercise such right or privilege.



Section 48. No limitation of time provided in this act shall run against any person who is mentally incompetent or a minor, so long as he has no guardian or trustee.

Section 50. There is hereby created the industrial board of Indiana, which shall consist of five members, two of whom shall be attorneys, and not more than three of whom shall be of the same political party, appointed by the governor, one of whom he shall designate as chairman.

The chairman of said board shall be an attorney of recognized qualifications.

Each member of the board shall hold his office for four years, and until his successor is appointed and qualified, unless removed by the governor, except that the three present members of said board shall continue to serve for and during the terms for which they have been appointed, unless removed as hereinafter provided, and of the two additional members hereby provided for, one shall be appointed for two years and one for four years. Thereafter, upon the expiration of the term of any member, the governor shall appoint his successor for the full term of four years.

Each member of the board shall devote his entire time to the discharge of the duties of his office and shall not hold any other position of trust or profit or engage in any occupation or business interfering with or inconsistent with the discharge of his duties as such member.

Any member of said board may be removed by the governor at any time for incompetency, neglect of duty, misconduct in office or other good cause, to be stated in writing in the order of removal.

In case of a vacancy in the membership of said board, the governor shall appoint for the unexpired term.

Section 51. The annual salary of each member of the board shall be four thousand dollars.

The board may appoint a secretary at a salary of not more than twenty-five hundred dollars a year and may remove him. The secretary shall have the authority to administer oaths and issue subpoenas.

The board, subject to the approval of the governor, may employ and fix the compensation of such clerical and other assistants as it may deem necessary. The clerical and other assistants shall be employed with special reference to their qualifications for the discharge of the duties assigned to them, and without regard to their political affiliations, except that not more than sixty per cent of such employees shall be of the same political party, provided that none of the present employees shall be discharged merely to establish such political proportion.

The members of the board and its assistants shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the board, but such expenses shall be sworn to by the person who incurred the same and shall be approved by the chairman of the board before payment is made.

All salaries and expenses of the board shall be audited and paid

out of the state treasury in the manner prescribed for similar expenses in other departments or branches of the state service.

Section 56. The board shall prepare, cause to be printed, and, upon request, furnish free of charge to any employer or employee such blank forms and literature as it shall deem requisite to facilitate and promote the efficient administration of this act. The accident reports and reports of attending physicians shall be the private records of the board, which shall be open to the inspection of the employer, the employee and their legal representatives, but not to the public, unless, in the opinion of the board, the public interest shall so require.

That the board shall make to the governor annually, on or before the first day of December, a report of its work during the preceding fiscal year, in such form as it may determine, with the approval of the governor. In order to prevent the accumulation of unnecessary and useless files of papers, the board, in its discretion, may destroy all papers which have been on file for more than two years, when there is no claim for compensation pending, or, when compensation has been awarded either by agreement or upon hearing, and more than one year has elapsed since the termination of the compensation period, as fixed by such board.

Section 58. If the employer and the injured employee or his dependents fail to reach an agreement in regard to the compensation payable under this act, or, if they have reached such an agreement, which has been signed by them, filed with and approved by the industrial board, and then disagree as to the continuance of payments under such agreement, because of a change in conditions since the making of such agreement, either party may make an application, to the industrial board, for the determination of the matters in dispute.

Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the parties in the manner prescribed by the board of the time and place of hearing. The hearing of all claims for compensation, on account of injuries occurring within the state, shall be held in the county in which the injury occurred, except when the parties consent to a hearing elsewhere.

Section 63. In all proceedings before the industrial board or in a court under this act, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court.

Section 65. The fees of attorneys and physicians and the charges of nurses and hospitals for services under this act shall be subject to the approval of the industrial board.

When any claimant for compensation is represented by an attorney in the prosecution of his claim, the industrial board shall fix and state in the award, if compensation be awarded, the amount of the claimant's attorney's fee. The fee so fixed shall be binding upon both the claimant and his attorney, and the employer shall pay to the

attorney out of the award the fee so fixed, and the receipt of the attorney therefor shall fully acquit the employer for an equal portion of the award. The industrial board may withhold the approval of the fees of the attending physician in any case until he shall file report with the industrial board on the form prescribed by such board.

25      Section 68. Every employer of the state, except agricultural employers and the employers of domestic servants, shall register annually on or before the first day of September with the industrial board and procure the certificate of said board showing such registration. Each such employer shall file an application with the industrial board, annually on or before the first day of September, for registration and a certificate thereof, upon a form therefor, prescribed by the industrial board and furnished by it, in which the employer shall state the following facts, to wit: The correct name of the employer, and, if a partnership, both the firm name and the names of the partners. The postoffice address of the employer, and when a partnership, the postoffice address of each partner; the nature and location of the business in which the employer is engaged; the number of employees; the sex of employees and the number of each sex, when both sexes are employed. Any employer failing to so file such application with the industrial board and procure a certificate of registration shall be fined not less than ten nor more than one hundred dollars.

The industrial board shall keep a registry by cards of the employers of the state, by counties, arranged in alphabetical order as to the names of the counties and the names of the employers.

26      Every employer under this act shall either insure or keep insured his liability hereunder in same corporation, association or organization authorized to transact the business of workmen's compensation insurance in this state, or shall furnish to the industrial board satisfactory proof of his financial ability to pay direct the compensation in the amount and manner and when due as provided for in this act. In the latter case the board may in its discretion require the deposit of an acceptable security, indemnity or bond to secure the payment of compensation liabilities as they are incurred.

Section 69. Every employer who does not exempt himself from the compensation provisions of this act and who does not procure from the industrial board a certificate of his financial ability to pay compensation direct, without insurance, shall, within ten days after this act takes effect, file with the industrial board, in the form prescribed by it, and thereafter within ten days after the termination of his insurance by expiration or cancellation, evidence of his compliance with the insurance provisions of section 68 hereof and all others relating to the insurance of his liability under this act.

That any employer hereafter coming under the compensation provisions hereof shall in like manner file like evidence of such compliance on his part.

If such employer refuses or neglects to comply with these provisions he shall be punished by a fine of ten cents for each employee at the time of the insurance becoming due, but not less than  
 27 ten dollars nor more than fifty dollars for each day of such refusal or neglect and until the same ceases, and he shall be liable during continuance of such refusal or neglect to an employee either for compensation under this act or at law in the same manner as provided for in section 10.

Section 70. Whenever an employer has complied with the provisions of section 68, relating to self-insurance, the industrial board shall issue to such employer a certificate which shall remain in force for a period fixed by the board, but the board may upon at least ten days' notice and a hearing to the employer revoke the certificate upon satisfactory evidence for such revocation having been presented. At any time after such revocation the board may grant a new certificate to the employer upon his petition, and satisfactory proof of his financial ability.

Section 73. No insurer shall enter into or issue any policy of insurance under this act until its policy form shall have been submitted to and approved by the industrial board. The industrial board shall not approve the policy form of any insurance company until such company shall file with it the certificate of the auditor of state showing that such company is authorized to transact the business of workmen's compensation insurance in the state. That the filing of a policy form by any insurance company or reciprocal insurance association with the industrial board for approval shall constitute on the part of such company or association a conclusive  
 28 sive and unqualified acceptance of each and all of the provisions of this act, and an agreement by it to be bound thereby.

All policies of insurance companies and of reciprocal insurance associations, insuring the payment of compensation under this act, shall be conclusively presumed to cover all the employees and the entire compensation liability of the insured.

Any provision in any such policy attempting to limit or modify the liability of the company or association issuing the same shall be wholly void.

Every policy of any such company or association must contain the following provisions:

(a) The insurer hereby assumes in full all the obligations to pay physician's fees, nurse's charges, hospital supplies, burial expenses, compensation or death benefits imposed upon or accepted by the insured under the provisions of "The Indiana Workmen's Compensation Act."

(b) That this policy is made subject to the provisions of "The Indiana Workmen's Compensation Act" and the provisions of said act relative to the liability of the insured to pay physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation or death benefits to and for said employees, the acceptance of such liability by the insured, the adjustment, trial and ad-

judication of claims for such physician's fees, nurse's charges,  
29 hospital services, hospital supplies, burial expenses, compensation or death benefits and the liability of the insurer to pay the same are and shall be a part of this policy contract as fully and completely as if written herein.

(c) That, as between this insurer and the employee, notice to or knowledge of the occurrence of the injury on the part of the insured (the employer) shall be notice or knowledge thereof, as the case may be, on the part of this insurer; that the jurisdiction of the insured (the employer) for the purpose of "The Indiana Workmen's Compensation Act," shall be the jurisdiction of this insurer, and this insurer shall in all things be bound by and shall be subject to the awards, judgments and decrees rendered against the insured (the employer) under said act.

(d) That this insurer will promptly pay to the person entitled to same, all benefits conferred by "The Indiana Workmen's Compensation Act," including physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses and all installments of compensation or death benefits that may be awarded or agreed upon under said act; that the obligation of this insurer shall not be affected by any default of the insured (the employer) after the injury or by any default in the giving of any notice required by this policy, or otherwise; that this policy is and shall be construed to be a direct  
30 promise by this insurer to the person entitled to physician's fees, nurse's charges, fees for hospital services, charges for hospital supplies, charges for burial, compensation or death benefits, and shall be enforceable in the name of such person.

(e) That any termination of this policy, either by cancellation or expiration, shall not be effective as to the employees of the insured covered hereby until ten days after written notice of such termination has been received by the industrial board of Indiana, at its office in Indianapolis, Indiana.

That all claims for compensation, nurse's charges, hospital services, hospital supplies, physician's fees or burial expenses may be made directly against either the employer or the insurer or both, and the award of the industrial board may be made against either the employer or the insurer or both.

That, if any insurer shall fail or refuse to pay any final award or judgment (except during the pendency of an appeal) rendered against it, or its insured, or, if it shall fail or refuse to comply with any provision of this act, the industrial board shall revoke the approval of its policy form, and shall not accept any further proofs of insurance from it until it shall have paid said award or judgment or complied with the violated provision of the act, and shall have re-submitted its policy form and received the approval thereof by the industrial board.

31 Section 76. In this act unless the context otherwise requires:

(a) "Employer" shall include the state, any political division thereof, any municipal corporation within the state, any individual,

firm, association or corporation or the receiver or trustee of the same or the legal representative of a deceased person, using the services of another for pay. If the employer is insured it shall include his insurer so far as applicable.

(b) "Employee" shall include every person, including a minor, lawfully in the service of another under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. Any reference to an employee who has been injured shall, when the employee is dead, also include his legal representatives, dependents and other persons to whom compensation may be payable.

(c) "Average weekly wages" shall mean the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of fifty-two weeks immediately preceding the date of injury, divided by fifty-two; but if the injured employee lost seven or more calendar days during such period, although not in the same week, then the earnings for the remainder of such fifty-two weeks shall be divided by the number of weeks, and parts thereof, remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of less than fifty-two weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed provided results just and fair to both parties will thereby be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of his employer or the casual nature or terms of the employment, it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the fifty-two weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

Wherever allowances of any character made to an employee in lieu of wages are specified part of the wage contract, they shall be deemed a part of his earnings.

(d) "Injury" and "personal injury" shall mean only injury by accident arising out of and in the course of the employment and shall not include a disease in any form except as it shall result from the injury.

33 Sec. 2. That all laws and parts of laws in conflict with the foregoing provisions are hereby repealed.

JESSIE E. ESCHBACH,  
*Speaker of the House of Representatives.*

Approved Mar. 10, 1919.

JAMES P. GOODRICH,  
*Governor of the State of Indiana.*

EDGAR D. BUSH,  
*President of the Senate.*

Filed Mar. 10, 1919. William A. Roach, Sec'y of State.

34 That said amendatory act above set out, after it had been so passed by the General Assembly of the State of Indiana was on the — day of March, 1919, duly signed and approved by the Honorable James P. Goodrich, as Governor of the State of Indiana, and that said amendatory act, heretofore set out, thereupon became and now is a law of the State of Indiana, to take effect when the Acts are distributed, if valid and constitutional.

Plaintiff alleges that all of the laws passed by said General Assembly of the State of Indiana, for the year 1919, are now in the hands of the State Board of Printing of the State of Indiana, which is preparing printed copies of the Session Laws of the State of Indiana, for the year 1919.

Plaintiff further avers that in pursuance of the constitution and statutes of the State of Indiana said Session Laws, including said amendatory act, known as House Bill No. 110, will be printed and distributed to the clerks of the several Circuit Courts of the State of Indiana, and upon receipt, by the Governor, of information from all of said clerks of the Circuit Courts of the State of Indiana, that said copies of said Session Laws have been received by said clerks,

35 said Governor will issue a proclamation that each and all of said laws passed by the General Assembly of the State of Indiana, for the year 1919, including said amendatory act known as House Bill No. 110, are in full force and effect, and said Acts and each of them will be fully consummated within three weeks from this date, as plaintiff is informed and believes, at which time said amendatory act known as House Bill No. 110, will become effective and operative, if a valid law.

7. Plaintiff further avers that the Indiana Workmen's Compensation Act of 1915, as amended by the General Assembly of the State of Indiana, for 1919, was a permissive act, and that all employers, and all employees had the right to elect not to come within the provisions of said law, and that an employer so electing not to come within the provisions of said act, was not required or compelled to pay compensation to its employees for personal injury to such employee, but could only be required to respond in an action at law, where such employer had been guilty of negligence; that plaintiff herein did, on the 28th day of July, 1915, elect to reject the provisions of said Indiana Work-



men's Compensation Act of 1915, as amended in 1917, and did so reject said act, and took all steps required to be taken by it, under said law, for the purpose of effectuating such rejection, which said rejection was in writing and was in words and following, to-wit:

36 No. —.

5M-11-12-17.

Industrial Board of Indiana.

(Workmen's Compensation.)

Form No. 1.

*Employer's Notice of Rejection of the Provisions of "the Indiana Workmen's Compensation Act."*

July 28th, 1915.

To the Employees of the Undersigned and the Industrial Board of Indiana:

You and each of you are hereby notified that the undersigned employer, being engaged in a business or occupation comprehended within the scope and meaning of an Act of the General Assembly of the State of Indiana, approved March 8, 1915, and known as "The Indiana Workmen's Compensation Act" and having employees engaged in said business, does hereby elect to reject the provisions of said act and to refuse to pay compensation for injuries to or the death of said employees, as in said Act provided.

West Terre Haute, Indiana.  
Post Office Address of Employer.

LOWER VEIN COAL CO.,  
JAMES LUTHER,

*President.*

F. C. FISHBECK,

*Sec.*

*Signature of Employer.*

STATE OF INDIANA,  
County of Vigo, ss:

37 The undersigned, being duly sworn, deposes and says that a true, correct and verbatim copy of the foregoing notice was on the 28th day of July 1915, posted at

Mine No. 1, also office at Mine No. 1.

" " 2 " " " " 2

GEO. H. RICHARDS,

*Signature of Affiant.*



Subscribed and sworn to before me, this 28 day of July, 1915.

[SEAL.]

BURWELL W. COLE,  
Notary Public.

My commission expires on the 17 day of March, 1919.

(On the back of Notice)

### Instructions.

1. In case the employer is a corporation, the corporate name should be signed, and the signatures of the president and secretary should be affixed.

2. When an employer elects to give the above notice, it must be served by posting in a conspicuous place in the plant, shop, office, room or place where the employe is employed, or by serving it upon him personally.

3. When the above notice is given, a correct copy thereof together with proof of its service must be filed with the Industrial Board.

4. Such notice must be given either at least thirty days prior to an accident resulting in injury or death or at the time of the employment.

5. When the employe is a miner, the notice must be given to his parent or guardian.

6. If the employer is a partnership, the firm name should be signed and the names of the individual partners should be stated.

No. —.

Form No. 1.

### *Employer's Notice of Rejection of Compensation Act.*

.....  
.....  
.....  
Name of Employer.

.....  
.....  
.....  
Post Office Address of Employer.

Filed with the Industrial Board of Indiana on the — day of —, 19—.

.....  
.....  
.....  
Secretary of the Board.

.....  
.....  
.....  
Wm. B. Burford, Printer, Indianapolis.

39 That at all times since said written rejection above set out was filed with the Industrial Board of Indiana, by the plaintiff, in accordance with the provisions of said act, it has continued

to be in full force and effect, and has never been withdrawn by the plaintiff herein, and that the plaintiff is not now subject to the terms and provisions of said Indiana Workmen's Compensation Act of 1915, as amended in 1917; that on the 9th day of April, 1919, the plaintiff served on said Industrial Board of Indiana, a notice in writing, executed by the plaintiff, of which the following is a copy:

"To the Industrial Board of the State of Indiana:

You are hereby notified that the undersigned Lower Vein Coal Company, being engaged in a business or occupation comprehended within the scope and meaning of an Act of the General Assembly of the State of Indiana, approved March 8th, 1915, and known as "Indiana Workmen's Compensation Act," and amendments thereto passed at the 70th regular session of the General Assembly of the State of Indiana, begun on the 4th day of January, 1917, and having employees engaged in said business, elects to reject the provision of said Act and refuses to pay compensation for injuries or the death of said employees as in said Act provided.

And you are hereby further notified that said Lower Vein Coal Company refuses to comply with amendments to said Act 40 passed by the 71st Regular Session of the General Assembly of the State of Indiana, whereby it is attempting to make said "Indiana Workmen's Compensation Act" compulsory upon persons, firms and corporations engaged in the business of mining coal, for the reason that said amendments passed by said 71st Session of the General Assembly of the State of Indiana, attempting to make said Act compulsory, is unconstitutional and void, and deprives said Lower Vein Coal Company of its property without due process of law and without compensation and deprives said Lower Vein Coal Company of the equal protection of law, in violation of the provisions of the constitutions of the United States and of the State of Indiana.

LOWER VEIN COAL COMPANY,  
By F. W. RICHARDS,  
Vice President.

Postoffice Address: Grand Opera House Building, Terre Haute, Indiana."

8. Plaintiff further avers that said Industrial Board of Indiana and each defendant hereto claims that said amendatory act of 1919, hereinbefore set out, is a valid and effective enactment, and particularly that Section 18 of said original Workmen's Compensation Act of 1915, as amended by said Act of 1919, compels and requires all coal mining companies in the State of Indiana, including the plaintiff, to come under the provisions of said law, and the jurisdiction of said Industrial Board of Indiana; and that said Industrial Board of Indiana and each defendant hereto asserts that the compulsory feature of Section 18 of said Act, is a 41 valid law, and assert its and their intention to assume jurisdiction in all personal injury cases, and to hear complaints and render awards,

and intends, unless enjoined by this Court, to take jurisdiction of all claims filed by employes of persons, partnerships and corporations engaged in mining coal, including the employes of this plaintiff, and to make awards in such cases, in favor of such employes and against the employers of such employes, including this plaintiff, notwithstanding the fact that this plaintiff has rejected the provisions of said Workmen's Compensation Act, and is not bound thereby; that it is the intention of said Industrial board of Indiana, and said members thereof to enforce, and unless enjoined by this Court it and they will enforce all of the provisions of said Workmen's Compensation Act, as amended by said amendatory act, known as House Bill 110, including the provisions of said Section 18, as so amended.

9. That in the prosecution of plaintiff's business in the State of Indiana, in the mining and marketing of coal, with approximately Five Hundred employes engaged therein, as heretofore averred, there have occurred from time to time in the past, and will, in the future, occur accidents to plaintiff's employes, resulting, without any negligence or fault on the part of the plaintiff, in injury to

42 said employes while engaged in the performance of their duties as such employes, and in the line of their duties, and in the course of their employment; that from time to time after the occurrence of such accidents in the future, plaintiff alleges on information and belief that claims for compensation will be filed by said injured employes, or their dependants, as fixed by said Workmen's Compensation Act, before said Industrial Board of Indiana, and that compensation will be awarded in practically all of said causes, by said Board, against this plaintiff.

Plaintiff alleges, on information and belief, that during the remainder of the year 1919, there will be more than twenty-five accidents to the employes of plaintiff, in the course of their employment, for which compensation will be claimed by said injured employes, or their dependants, before said Industrial Board of Indiana, which injuries will be of a kind and character entitling said injured employes, or their dependants, to compensation under said law, if, under the law, plaintiff is required to pay such compensation in lieu of damages; that the awards which will be made in such cases, against this plaintiff, and in favor of its injured employes, or their dependants, will exceed in the remaining part of the year 1919, the sum of Twenty-five Thousand dollars, and that this plaintiff will,

43 unless the defendants are restrained and enjoined by this Court, be compelled to defend, before said Industrial Board of Indiana, more than twenty-five separate claims for compensation, each of which said claims will involve many questions of law and fact, and a separate trial and determination before said Industrial Board of Indiana.

That unless said Industrial Board of Indiana is restrained and enjoined from enforcing the provisions of Section 18 of said Workmen's Compensation Act, as amended, plaintiff will be compelled to employ attorneys to defend the large number of suits, and applications for awards, heretofore referred to, and will be compelled to

expend for attorney's fees and other expenses incident to said multiplicity of actions a sum in excess of Five Thousand dollars, during the remainder of the year 1919.

10. Plaintiff further avers that under and by virtue of the terms and provisions of the said Section 18 of the Workmen's Compensation Act, as amended by the General Assembly of the State of Indiana, for 1919, the Workmen's Compensation Act is now mandatory and compulsory, if said law be valid, upon the State of Indiana, its political divisions, and all municipal corporations within the State, and upon persons, partnerships and corporations engaged in mining coal, and the employees thereof, and is optional and permissive as to all other employers and employees within the State of Indiana; that persons, partnerships and corporations engaged

44 in mining coal, are the sole and only private employers and corporations who are compelled, under said Section 18, as amended, to operate under the provisions of said Workmen's Compensation Act.

Plaintiff avers that the business of mining coal is a hazardous one, but alleges that there are many other businesses conducted within the State of Indiana, in which thousands of men are employed annually, which are more hazardous than the business of mining coal, in which the plaintiff is engaged, and many other businesses in which thousands of men are employed annually, in the State of Indiana which are equally as hazardous as the business of mining coal; that for the year ending October 1, 1917, the following number of employees were injured in the respective businesses, hereinafter set forth, to-wit:

Steam railroads .....	3,734
Iron and Steel Industries.....	3,446
Machinery and Machine Shops.....	2,831
Auto Manufacturers and repairing.....	2,196
Coal Mining.....	2,162
General Contractors.....	1,117
Furniture Manufacturing.....	1,050
Car Manufacturing and repairing.....	1,009
Foundries .....	997
Glass manufacturing.....	949

45 That for the year ending October 1st, 1918, the following number of employees were injured in the respective businesses hereinafter set forth, to-wit:

Steam railroads.....	3,812
Iron and Steel Industries.....	3,577
Machinery and Machine Shops.....	2,748
Auto Manufacturing and repairing.....	3,206
Coal Mining.....	2,170
General Contractors.....	1,892
Furniture Manufacturing.....	1,421
Car Manufacturing and repairing.....	1,489
Foundries .....	1,987
Glass manufacturing.....	972

That the figures above set forth are taken from statistical information furnished by the several employers of the State of Indiana, to the defendant, Industrial Board of Indiana, and are compiled from reports required to be made by all employers in the State of Indiana, to the Inspection Department of the State of Indiana.

That said statistics above set forth have been continuously, since October 1st, 1917, a part of the public records of the State of Indiana, and available to all persons.

11. Plaintiff avers that said Section 18, of the Workmen's  
46 Compensation Act of Indiana, as amended by the General  
Assembly of the State of Indiana, for the year 1919, known  
as House Bill No. 110, is unconstitutional and void for the following  
reasons, and each of them, to-wit:

(1) It violates the provisions of the Fourteenth Amendment of the Constitution of the United States, in that it deprives the plaintiff of its property without due process of law, and denies to the plaintiff the equal protection of the laws.

Said Act is an unwarranted abridgement of the rights and privileges guaranteed to the plaintiff by said Fourteenth Amendment of the Constitution of the United States, in the following particulars, and each of them, to-wit:

(a) That the classification attempted in said Act is arbitrary and discriminatory, and is not based upon any just or reasonable ground, but that the General Assembly has passed a law arbitrarily and without any fair reason, making the Workmen's Compensation Act compulsory and mandatory as to persons, partnerships and corporations engaged in the business of mining coal, and permissive, or voluntary, as to all other businesses within the State of Indiana.

(b) It denies the plaintiff the equal protection of the laws, because it is not equal or uniform in its operation, but singles out the line of business in which the plaintiff is engaged, the same being a lawful business, and impose onerous burdens upon such business,  
and upon the plaintiff, and upon others engaged in the same  
47 business as the plaintiff, without imposing like burdens upon  
others engaged in similar business within the State of  
Indiana and upon others whose businesses are equally hazardous,  
and more hazardous than the business of the plaintiff.

(c) That said Act deprives the plaintiff of its property without due process of law, in that it imposes burdens upon the plaintiff, not imposed upon other persons, partnerships and corporations similarly situated and engaged in business of equal, or greater hazard.

(d) That said Act, in its provisions, is partial, unreasonable, oppressive and unequal.

(e) That the classification fixed by said law rests upon no sound or reasonable basis, but is wholly arbitrary.

(2) That said Act is invalid because it violates Section 23 of Article 1 of the Bill of Rights of the Constitution of the State of

Indiana, which provides that "The General Assembly shall not grant to any citizen, or class of citizens, privileges and immunities which, upon the same terms, shall not equally belong to all citizens," for the following reasons, and each of them, to wit:

(a) Because the said Act grants to other citizens, and classes of citizens, the privilege and immunity of not coming under the provisions of said law, which it does not grant upon the same  
48 terms and equally to the plaintiff, and others engaged in the business of mining coal within the State of Indiana.

(b) Said act is discriminatory against the plaintiff, and all other persons, partnerships and corporations engaged in the business of mining coal, which is a lawful business, and in favor of other equally hazardous and dangerous business.

(c) There is no basis for the classification fixed by said Act, and said classification is unjust, oppressive and discriminatory.

(3) That said Act is invalid because it violates Section 21 of Article 1 of the Bill of Rights of the Constitution of the State of Indiana, which provides that "No man's particular services shall be demanded without just compensation. No man's property shall be taken by law without just compensation; nor, except in the case of the State, without such compensation first assessed and tendered," for the following reasons, and each of them, to wit:

(a) Because plaintiff's property would be taken by awards made by the Industrial Board of Indiana, where there was no negligence, or fault upon the part of the plaintiff, and other persons, firms and corporations engaged in businesses equally, or more hazard-  
49 ous, would not be subjected to the same liability.

(b) Because the private property of this plaintiff would be taken by virtue of the awards of the Industrial Board of Indiana, as heretofore averred, without any negligence on the part of this plaintiff, and in disregard of the question as to whether or not this plaintiff was negligent for the alleged public purpose of protecting the State of Indiana, and without compensation to the plaintiff.

13. Plaintiff further avers that unless an interlocutory injunction is granted, after notice to the Governor of Indiana, the Attorney General of Indiana, and the several defendants named herein, and upon hearing, plaintiff will be compelled to defend innumerable applications for compensation, before said Industrial Board of Indiana, to its irreparable loss and injury, and plaintiff will not be enabled to prosecute its business of mining and marketing coal within the State of Indiana, without exposing itself to numerous and repeated claims for compensation; that if awards should be made by said Industrial Board of Indiana, and plaintiff should be compelled to pay the same, and if this Act should thereafter be declared invalid, plaintiff would be required to not merely pay said awards so made by said Industrial Board of Indiana, but, later, would be compelled to de-

fend numerous actions at law, to recover damages for such personal injury.

50 Inasmuch, therefore, as plaintiff is without adequate remedy in the premises, by the strict rules of common law, and can obtain relief only in a court of equity, where matters and things of the kind and character herein alleged, are properly cognizable and relievable, and to the end that plaintiff may have the relief that can be obtained only in a court of equity, plaintiff prays, as follows, to wit:

(1) That writs of subpoena be issued to said defendants, and each of them, requiring them, and each of them, to answer this Bill of Complaint, fully and truthfully, but not under oath, an answer under oath being hereby expressly waived.

(2) That each and all of said defendants, and their, and each of their successors in office, be restrained and enjoined, after notice to them, and to the Governor and Attorney General of Indiana, and upon hearing from enforcing in any manner, Section 18 of the Workmen's Compensation Act of Indiana, as amended by the General Assembly of the State of Indiana, for 1919, and from asserting that plaintiff is compelled to operated under said Workmen's Compensation Action, and from hearing any claim for compensation, asserted by any employe of the plaintiff, so long as plaintiff elects not to come within the provisions of said Act, and from making any  
51 award to any injured employe of plaintiff, or his, or her dependants, during such time, and from doing any other act or thing prejudicial to the rights of the plaintiff, so long as it elects not to be bound by said Compensation Act.

(3) That upon the final hearing of this cause, said Section 18, as amended, be declared unconstitutional and void, as violative of the Constitution of the United States and of the Constitution of the State of Indiana, and that a perpetual injunction be issued, restraining and enjoining the enforcement thereof, by the defendants, and each of them, and their, and each of their successors in office, and all other persons, and for such other and further relief in the premises, as may be required by equity and good conscience.

LOWER VEIN COAL COMPANY,

By F. W. RICHARDS,

*Its Vice President.*

DAVIS, MOORE, COOPER, ROYSE &  
BOGART,

MILLER, DAILEY & THOMPSON,  
*Solicitors for Plaintiff.*

Attest:

FRANK J. FISBECK,

*Secretary.*

W. H. THOMPSON,

*Of Counsel.*



52      **STATE OF INDIANA,**  
*County of Marion, ss:*

F. W. Richards, being first duly sworn, upon his oath deposes and says that he is the duly qualified and acting Vice-President of the plaintiff in this case; that he has read over the foregoing Bill of Complaint, and knows the contents thereof, and that the allegations therein contained are true, except as to matters therein stated to be alleged on information and belief, and that as to such matters he believes them to be true; that he makes this affidavit for and on behalf of the plaintiff, and is authorized so to do.

F. W. RICHARDS.

Subscribed and sworn to before me, Noble C. Butler, Clerk of the District Court of the United States, for the District of Indiana.

FRANK J. CRAWFORD,

[SEAL.]

Clerk.

My Commission expires August 20, 1921.

53      "EXHIBIT A."

Workmen's Compensation Act.—1. That this act shall be known as "The Indiana Workmen's Compensation Act."

Acceptance of act.—2. From and after the taking effect of this act, every employer and every employe, except as herein stated, shall be presumed to have accepted the provisions of this act respectively to pay and accept compensation for personal injury or death by accident arising out of and in the course of the employment, and shall be bound thereby; unless he shall have given prior to any accident resulting in injury or death notice to the contrary in the manner herein provided. This act shall not apply to railroad employes engaged in train service.

Exceptions by notice.—3. Either an employer or employe who has excepted himself, by proper notice, from the operation of this act, may at any time waive such exemption and thereby accept the provisions of this act by giving notice as herein provided.

The notice of exemption and the notice of acceptance heretofore referred to shall be given thirty days prior to any accident resulting in injury or death, provided that if any such injury occurred less than thirty days after the date of employment notice of such exemption or acceptance given at the time of employment shall be sufficient notice thereof. The notice shall be in writing or print in a substantial form prescribed by the industrial board and shall be given by the employer by posting the same in a conspicuous place in the plant, shop, office, room or place where the employe is employed, or by serving it personally upon him; and shall be given by the employe by sending the same in registered letter addressed to the employer at his last known residence or place of business, or by giving



it personally to the employer, or any of his agents upon whom a summons in civil action may be served under the laws of the state.

A copy of notice in prescribed form shall also be filed with the industrial board.

Contract of service continuance.—4. Every contract of service between any employer and employe covered by this act, written or implied, now in operation or made or implied prior to the taking effect of this act, shall, after the act has taken effect, be presumed to continue: and every such contract made subsequent to the taking effect of this act shall be presumed to have been made subject to the provisions of this act; unless either party shall give notice, as provided in section 3, to the other party to such contract that the provisions of this act other than sections 10, 11 and 67 are not intended to apply.

A like presumption shall exist equally in the case of all minors unless notice of the same character be given by or to the parent or guardian of the minor.

Payment of compensation, insurance.—5. Every employer who accepts the compensation provisions of this act shall insure the payment of compensation to his employes in the manner hereinafter provided, and while such insurance remains in force he or those conducting his business shall only be liable to any employe for personal injury or death by accident to the extent and in the manner herein specified.

Rights and remedies.—6. The rights and remedies herein granted to an employe subject to this act on account of personal injury or death by accident shall exclude all other rights and remedies of such employe, his personal representatives, dependents or next of kin, at common law or otherwise on account of such injury or death.

54 Parties not relieved from penalty.—7. Nothing in this act shall be construed to relieve any employer or employe from penalty for failure or neglect to perform any statutory duty.

Wilful misconduct, self-afflicted injuries.—8. No compensation shall be allowed for an injury or death due to the employe's wilful misconduct, including intentional self-afflicted injury, intoxication, and wilful failure or refusal to use a safety appliance or perform a duty required by the statute.

The burden of proof shall be on the defendant employer.

Class of laborers not applicable.—9. This act except section 67 shall not apply to casual laborers, to farm or agricultural laborers and to domestic servants, not to employers of such persons; unless such employes and their employers voluntarily elect in the manner hereinafter specified to be bound by this act.

Employers exempt, rights to defend.—10. Every employer who elects not to operate under this act shall not in any suit at law by an employe to recover damages for personal injury or death by accident be permitted to defend any such suit at law upon any one or all of the following grounds:

(a) That the employe was negligent.

(b) That the injury was caused by the negligence of a fellow employe:

(c) That the employe has assumed the risk of the injury.

Common law employes exempt.—11. Every employe who elects not to operate under this act shall, in any action to recover damages for personal injury or death brought against an employer accepting the compensation provisions of this act, proceed at common law, and the employer may avail himself of the defenses of contributory negligence, negligence of a fellow servant and assumption of risk, as such defenses exist at common law.

Liability of employer.—12. When both the employer and employe elect not to operate under this act, the liability of the employer shall be the same as though he alone had rejected the terms of this act, and in any suit brought against him the employer shall not be permitted to avail himself of any of the common law defenses cited in section 11.

Person other than Employer, liability.—13. Whenever an injury for which compensation is payable under this act shall have been sustained under circumstances creating in some other person than the employer a legal liability to pay damages in respect thereto, the injured employe may at his option either claim compensation or proceed at law against such other person to recover damages or proceed against both the employer and such other person, but he shall not collect from both; and if compensation is awarded under this act the employer having paid the compensation or having become liable therefor, may collect in his own name or that of the injured employe from the other person in whom legal liability for damages exist, the indemnity paid or payable to the injured employe.

Sub-Contractors, Liability.—14. A principal, intermediate or sub-contractor shall be liable for compensation to any employe injured while in the employ of any one of his sub-contractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer.

Any principal, intermediate, or sub-contractor who shall pay compensation under the foregoing provisions may recover the amount paid from any person, who independently of this section would have been liable to pay compensation to the injured employe.

Every claim for compensation under this section shall in the first instance be presented to and instituted against the immediate employer, but such proceedings shall not constitute a waiver of the employe's rights to recover compensation under this act from the principal or intermediate contractor, provided that the collection of full compensation from one employer shall bar recovery by the employe against any others, nor shall he collect from all a total compensation in excess of the amount for which any of the said contractors is liable.

This section shall apply only in cases where the injury occurred

on, in or about the premises on which the principal contractor has undertaken to execute work or which are otherwise under his control or management.

Employer not entitled to relief by contract.—15. No contract or agreement, written or implied, no rule, regulation or other device, shall in any manner operate to relieve any employer in whole or in part of any obligation created by this act except as herein provided.

Compensation Preferred Claim.—16. All rights of compensation granted by this act shall have the same preference or priority for the whole thereof against the assets of the employer as is allowed by law for any unpaid wages for labor.

Claims not assignable.—17. No claim for compensation under this act shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors.

Provisions of act, jurisdiction.—18. The provisions of this act except sections 3, 4, 10, 11, and 12 shall apply to the state and any municipal corporations within the state or any political division thereof, and to the employers thereof.

Persons engaged in interstate commerce.—19. This act except section 67 shall not apply to employes engaged in interstate or foreign commerce, not to their employers in case the laws of the United States provide for compensation or for liability for injury or death by accident of such employes.

Place of injury does not exempt.—20. Every employer and employe under this act, except as provided in section 19, shall be bound by the provisions of the act whether injury by accident or death resulting from such injury occurs within the state or in some other state or in a foreign country.

Injuries prior to taking effect of act.—21. The provisions of this act shall not apply to injuries or death nor to accidents which occurred prior to the taking effect of this act.

#### Compensation Schedule.

Notice of Injury.—22. Every injured employe or his representative shall immediately upon the occurrence of an injury or as soon thereafter as practicable give or cause to be given to the employer written notice of the injury and the employe shall not be entitled to physician's fees nor to any compensation which may have accrued, under the terms of this act, prior to the giving of such notice; unless it can be shown that the employer, his agent or representative had knowledge of the injury or death, or that the party required to give such notice had been prevented from doing so by reason of physical or mental incapacity or the fraud or deceit of some third person, or for equally good reason; but no compensation shall be payable unless

such written notice is given within thirty days after the occurrence of the injury or death, unless reasonable excuse is made to the satisfaction of the industrial board for not giving such notice.

56 Causes of Injury or Death, Notice.—23. The notice provided in the foregoing section shall state in ordinary language the name and address of the employe, the time, place, nature and cause of the injury or death, and shall be signed by the employe or by a person on his behalf, or in the event of his death by any one or more of his dependents or by a person on their behalf.

No defect or inaccuracy in the notice shall be a bar to compensation unless the employer shall prove that his interest was prejudiced thereby, and then only to the extent of such prejudice.

Said notice shall be given personally to the employer or any of his agents upon whom a summons in civil action may be served under the laws of the state, or may be sent by registered letter addressed to the employer at his last known residence or place of business.

Time for filing claim, limitation.—24. The right to compensation under this act shall be forever barred unless within two years after the injury or if death results therefrom, within two years after such death, a claim for compensation thereunder shall be filed with the industrial board.

Medical attention furnished.—25. During the thirty days after an injury the employer shall furnish or cause to be furnished free of charge to the injured employe, and the employe shall accept and during the whole or any part of the remainder of his disability resulting from the injury, the employer may, at his own option continue to furnish or cause to be furnished, free of charge to the employe, and the employe shall accept an attending physician; provided, however, unless otherwise ordered by the Industrial Board, and in addition such surgical and hospital service and supplies as may be deemed necessary by said attending physician, or the industrial board.

The refusal of the employe to accept such service when provided by the employer shall bar said employe from further compensation until such refusal ceases, and no compensation shall at any time be payable for the period of suspension unless in the opinion of the industrial board the circumstances justify the refusal, in which case the board may order a change in the medical or hospital service.

If in an emergency (or) on account of the employer's failure to provide the medical care for the first thirty days, as herein specified, or for other good reason, a physician other than that provided by the employer is called to treat the injured employe during the first thirty days, the reasonable cost of such service shall be paid by the employer subject to the approval of the Industrial Board.

Pecuniary liability, limit.—26. The pecuniary liability of the employer for medical, surgical and hospital service herein required shall be limited to such charges as prevail in the same community

for similar treatment of injured persons of a like standing of living when such treatment is paid for by the injured person.

Examination of injured person.—27. After an injury and during the period of resulting disability, the employe, if so requested by his employer or ordered by the industrial board, shall submit himself to examination, at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer of the industrial board. The employe shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid by him. No fact communicated to, or otherwise learned by any physician or surgeon who may have attended or examined the employe, or who may have been present at any examination, shall be privileged, either in the hearings provided for in this act, or any action at law brought to recover damages against any employer who may have accepted the compensation provisions of this act. If the employe refuses to submit himself to or in any way obstructs such examinations, his right to compensation and his right to prosecute any proceeding under this act shall be suspended, until such refusal or obstruction ceases, and no compensation shall at any time be payable for the period of suspension unless in the opinion of the industrial board the circumstances justify the refusal or obstruction. The employer, or the industrial board shall have the right in any case of death to require an autopsy at the expense of the party requiring same.

Commencement of compensation.—28. No compensation shall be allowed for the first seven (7) calendar days of disability resulting from an injury except the benefits provided for in section twenty-five (25); but if disability extends beyond that period compensation shall commence with the eighth day after the injury.

Total disability, compensation.—29. Where the injury causes total disability for work, there shall be paid to the injured employe during such total disability, but not including the first seven (7) days thereof, a weekly compensation equal to fifty-five per cent. of his average weekly wages for a period not to exceed five hundred (500) weeks.

Partial disability, compensation.—30. Where the injury causes partial disability for work, there shall be paid to the injured employe during such disability but not including the first seven (7) days thereof, a weekly compensation equal to one-half ( $\frac{1}{2}$ ) of the difference between his "Average weekly wages" and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. In case the partial disability begins after a period of total disability, the latter period shall be deducted from the maximum period allowed for partial disability.

Schedule of injuries.—31. For injuries in the following schedule the employe shall receive in lieu of all other compensation a weekly compensation equal to fifty-five per cent. of his average weekly wages for the period stated against such injuries respectively to-wit:

(e) For the loss by separation of not more than one phalange of a thumb or not more than two phalanges of a finger—15 weeks; (b) for the loss by separation of more than two phalanges of a finger or of a whole finger or a toe—30 weeks; (c) for the loss by separation of more than one phalange of a thumb or of a whole thumb—60 weeks; (d) for the permanent and irrevocable loss of the sight of one eye or its reduction to one-tenth of normal vision with glasses—100 weeks; (e) for the loss by separation of one foot at or above the ankle joint—125 weeks; (f) for the loss by separation of one hand at or above the wrist joint—150 weeks; (g) for the loss by separation of one leg at or above the knee joint—175 weeks; (h) for the loss by separation of one arm at or above the elbow joint—200 weeks; (i) for the permanent and complete loss of hearing—75 weeks.

In all other cases of permanent partial disability, including any disfigurement which may impair the future usefulness or opportunity of the injured employe, compensation in lieu of all other compensation shall be paid when and in the amount determined by the industrial board not to exceed fifty-five per cent. of average weekly wages per week for a period of two hundred weeks.

Refusal to accept position after injury.—32. If an injured employe refuses employment suitable to his capacity procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal unless in the opinion of the industrial board such refusal was justifiable.

Permanent injury.—33. If an employe has sustained a permanent injury in another employment than that in which he received a subsequent permanent injury by accident, such as specified in section 31, he shall be entitled to compensation for the subsequent injury in the same amount, as if the previous injury had not occurred.

58 Double compensation not allowed.—34. If an employe received an injury for which compensation is payable while he is still receiving or entitled to compensation for a previous injury in the same employment, he shall not at the same time be entitled to compensation for both injuries unless it be for a permanent injury, such as specified in section 31; but he shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amount payable under this act.

Extension of compensation period.—35. If an employe receives a permanent injury such as specified in section 31, after having sustained another permanent injury in the same employment, he shall be entitled to compensation for both injuries but the total compensation shall be paid by extending the period and not be increasing the amount of weekly compensation.

When the previous and subsequent permanent injuries result in total permanent disability, compensation shall be payable for per-

manent total disability, but payments made for the previous injury shall be deducted from the total payment of compensation due.

Death from other cause after injury.—36. When an employe receives or is entitled to compensation under this act for an injury and dies from any other cause than the injury for which he was entitled to compensation, payment of the unpaid balance of compensation shall be made to his next of kin dependent upon him for support.

Compensation for death after injury.—37. Where death results from the injury within three hundred weeks, there shall be paid in addition to burial expenses not to exceed one hundred dollars, a weekly compensation equal to fifty-five per cent of the deceased's average weekly wages during such remaining part of three hundred weeks as compensation shall not have been paid to the deceased for total or partial disability, to all dependents of the employee wholly dependent upon his earnings for support at the time of the injury. If the employee leaves dependents only partially dependent upon his earnings for support at the time of the injury, the weekly compensation to those dependents shall, in addition to burial expenses, not to exceed one hundred dollars, be in the same proportion to the weekly compensation for persons wholly dependent as the amount contributed by the deceased employee to such partial dependent bears to his annual earnings at the time of the injury.

Dependent persons.—38. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employee:

(a) A wife upon a husband with whom she lives at the time of his death.

(b) A husband upon a wife with whom he lives at the time of her death if he is then incapable of self-support and actually dependent upon her.

(c) A boy under the age of 18, or a girl under the age of 18 upon the parent with whom he or she is living at the time of the death of such parent, there being no surviving dependent parent. If child is over the ages specified above, but physically or mentally incapacitated from earning, he or she shall be presumed to be totally dependent if there is no surviving dependent parent. As used in this section, the terms "boy," "girl" or "child" shall include step children, legally adopted children, posthumous children, acknowledged illegitimate children, but shall not include married children; the term "parent" shall include step-parents and parents by adoption.

In all other cases, questions of dependency, in whole or in part, shall be determined in accordance with the fact, as the fact may be at the time of the injury; and in such other cases if there is more than one person wholly dependent, the death benefit shall be divided among them; and persons partly dependent, if any, shall receive no part thereof; if there is no one wholly dependent and more than one partly dependent, the death benefit shall



be divided among them according to the relative extent of their dependency.

For the purpose of this act, the dependence of a widow or widower of a deceased employe, and dependent children living with said widow or widower shall terminate with remarriage, and the amount received by her shall be divided among other dependents in the proportion in which they are receiving compensation, and in the event of the separation of the wife from her second or subsequent husband and her obtaining a divorce upon her own application, then she shall receive the same compensation for which she would have been entitled had she not remarried, but the time from the date of the remarriage to the date of the divorce shall be deducted from the time compensation runs and the dependence of a child except a child physically or mentally incapacitated from earning, shall terminate with the attainment of 18 years of age.

No dependents after death.—39. If the deceased employe leaves no dependents the employer shall pay the burial expense of the deceased, not to exceed one hundred dollars.

Average weekly wages.—40. In computing compensation under the foregoing section, the average weekly wages of an employe shall be considered not to be more than twenty-four dollars, nor less than ten dollars; and provided further, That the total compensation payable under this act shall in no case exceed five thousand dollars (\$5,000.00).

Payments deducted.—41. Any payments made by the employer to the injured employe during the period of his disability, or to his dependents, which by the terms of this act were not due and payable when made, may, subject to the approval of the industrial board, be deducted from the amount to be paid as compensation; Provided, That in case of disability such deduction shall be made by shortening the period during which compensation must be paid and not by reducing the amount of the weekly payments unless otherwise hereinafter specified.

Payments monthly or quarterly.—42. The industrial board upon application of either party, may, in its discretion, having regard to the welfare of the employe and the convenience of the employer, authorize compensation to be paid monthly or quarterly instead of weekly.

Redemption of total compensation.—43. Whenever any weekly payment has been continued for not less than 26 weeks, the liability therefor may in unusual cases, where the parties agree and the industrial board deems it to be for the best interest of the employe or his dependents, be redeemed by the payment, in whole or in part, by the employer, of a lump sum which shall be fixed by the board, but in no case to exceed the commutable value of the future installments which may be due under this act. The Board may, however, in its discretion at any time in the case of minor who has received perma-



nently disabling injuries, either partial or total, provide that he be compensated in whole or in part by the payment of a lump sum, the amount of which shall be fixed by the Board, but in no case to exceed the commutable value of the future installments which may be due under this act.

60      Trustee appointed.—44. Whenever the industrial board deems it expedient, any lump sum under the foregoing section shall be paid by the employer to some suitable person or corporation appointed by the circuit or superior court, as trustee, to administer the same for the benefit of the person entitled thereto, in the manner provided by the board. The receipt of such trustee for the amount as paid shall discharge the employer or anyone else who is liable therefor.

Awards reviewed.—45. Upon its own motion or upon the application of any party in interest on the ground of a change in condition, the industrial board may at any time review any award and on such review may make an award ending, diminishing or increasing the compensation previously awarded, subject to the maximum or minimum provide- (provided) in this act, and shall immediately send to the parties a copy of the award. No such review shall effect such award as regards any moneys paid.

Receipts for compensation.—Whenever payment of compensation is made to a widow or widower for her or his use or for her or his use and the use of a child or children, the written receipt thereof by such widow or widower shall acquit the employer. Whenever payment is made to any person eighteen years of age or over, the written receipt of such person shall acquit the employer. Whenever payment is made to a minor under the age of 18 years, or to a dependent child over the age of eighteen, the same shall be made to some suitable person or corporation appointed by the circuit or superior court as trustee, and the receipt of such trustee shall acquit the employer; Provided, however, That the industrial board may review the facts and circumstances surrounding the payment of any money and the taking of any receipt as provided in this section any may set the same aside either for fraud or undue influence.

Mentally incompetent persons.—47. If an injured employe is mentally incompetent or is under 18 years of age at the time when any right or privilege accrues to him under this act, his guardian or trustee may in his behalf claim and exercise such right or privilege.

Limitation of time.—48. No limitation of time provided in -his (this) act shall run as against any person who is mentally incompetent or a minor dependent, so long as he has no guardian or trustee.

Joint employers.—49. Whenever any employe for whose injury or death compensation is payable under this act shall at the time of the injury be in the joint service of two or more employers subject to this act, such employers shall contribute to the payment of such com-

compensation in proportion to their wage liability to such employes: Provided, however, That nothing in this section shall prevent any reasonable arrangement between such employers for a different distribution as between themselves of the ultimate burden of compensation.

Industrial board, governor appoints.—50. There is hereby created a board which shall be known as the Industrial Board of Indiana, which shall consist of three members, not more than two (2) of whom shall belong to any one political party, appointed by the governor, one of whom he shall designate as chairman. Each member of the board shall hold office for four years, and until his successor is appointed and qualified, except that when the board is first constituted, one member shall be appointed for three years, one for four years, and the third shall be present chief of the state bureau of inspection, who shall serve for one year as hereinafter provided. Thereafter upon the expiration of the term of any member, the governor shall appoint his successor for the full term of four years.

Each member of the board shall devote his entire time to the duties of his office and shall not hold any position of trust or profit or engage in any occupation or business interfering or inconsistent with his duties as such member.

Salaries, office force.—51. The salary of each member of the board shall be four thousand dollars per year each. The board may appoint a secretary at a salary of not more than twenty-five hundred dollars a year and may remove him. The board may also subject to the approved (approval) of the governor, employ such clerical and other assistants as it may deem necessary and fix the compensation of all persons so employed.

The members of the board and its assistants shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the board, but such expenses shall be sworn to by the person who incurred the same and shall be approved by the chairman of the board before payment is made.

All salaries and expenses of the board shall be audited and paid out of the state treasury in the manner prescribed for similar expenses in other departments or branches of the state service.

Bureau of inspection abolished.—52. The rights, powers and duties conferred by law upon the state bureau of inspection of the State of Indiana are hereby continued in full force and are hereby transferred to the industrial board created and shall be held and exercised by them under the laws heretofore in force and the said state bureau of inspection is hereby abolished.

The present chief inspector of said state bureau of inspection is hereby made a member of said industrial board until the expiration of one year from the date of the taking effect of this act and until his successor is appointed and qualified. The deputy inspectors heretofore appointed by the governor as deputy inspectors in said state bureau of inspection, to-wit:

Inspector of buildings, factories and workshops, inspector of boilers and inspector of mines and mining, together with their assistant inspectors, are hereby continued in their respective offices, at their present salaries, until the expiration of the terms for which they are respectively appointed and until their successors are appointed and qualified and each of them respectively shall have and perform all the rights, powers and duties now held and performed by each of them respectively, together with such other rights, powers and duties as may be prescribed by said industrial board. Upon the termination of the said terms of office for which said deputy inspectors have been appointed, said industrial board, with the concurrence of the governor, shall appoint their successors to serve during the pleasure of said industrial board.

Labor commission abolished.—53. All the rights, powers and duties of the labor commission of the State of Indiana, heretofore created and subsequently transferred to and vested in the state bureau of inspection, are hereby abolished.

Location of offices.—54. The board shall be provided with adequate offices in the capital or some other suitable building in the city of Indianapolis, in which the records shall be kept and its official business be transacted during regular business hours; it shall also be provided with necessary office furniture, stationery and other supplies. The board or any member thereof may hold sessions at any place within the state as may be deemed necessary.

Rules of board.—55. The board may make rules not inconsistent with this act for carrying out the provisions of this act. Processes and procedure under this act shall be as summary and simple as reasonably may be. The board or any member thereof shall have the power for the purpose of this act to subpoena witnesses, administer or cause to have administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute.

The county sheriff shall serve all subpoenas of the board and shall receive the same fees as now provided by law for like service in civil actions; each witness who appears in obedience to such subpoena of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts.

The circuit or superior court shall, on application of the board or any member thereof, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and records.

Blank forms, record of accidents.—56. The board shall prepare and cause to be printed, and upon request furnish free of charge any employer or employe, such blank forms and literature as it shall deem requisite to facilitate or promote the efficient administration of this act.

The board shall tabulate the accident reports received from employers in accordance with section 67, and shall publish the same in the annual report of the board and as often as it may deem advis-

able, in such detailed or aggregate form as it may deem best. The name of the employer or employe shall not appear in such publications and the employers' reports, themselves shall be private records of the board and shall not be open for public inspection except for the inspection of the parties directly involved, unless in the opinion of the board the public interest shall require otherwise. These reports shall not be used as evidence against any employer in any suit at law brought by any employe for the recovery of damages.

Agreed compensation.—57. If after seven (7) days from the date of the injury or at any time in case of death, the employer and the injured employe or his dependents reach an agreement in regard to compensation under this act, a memorandum of the agreement in the form prescribed by the industrial board shall be filed with the board; otherwise such agreement shall be voidable by the employe or his dependents. If approved by the board, thereupon the memorandum shall for all purposes be enforceable by court decree as herein-after specified. Such agreement shall be approved by said  
63 board only when the terms conform to the provisions of this act.

Failure to agree, hearing.—58. If an employer and the injured employe or his dependents fail to reach an agreement in regard to compensation under this act, or if they have reached such an agreement which has been signed and filed with the board and compensation has been paid or is due in accordance therewith, and the parties thereto then disagree as to the continuance of any weekly payment under such agreement, either party may make an application to the industrial board for a hearing in regard to the matters at issue and for a ruling thereon.

Immediately after such application has been received the board shall set the date for a hearing, which shall be held as soon as practicable, and shall notify the parties at issue of the time and place of such hearing. The hearing shall be held in the county where the injury occurred.

Hearing by board, award, copies sent.—59. The board, by any or all of its members, shall hear the parties at issue, their representatives and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent to each of the parties in dispute.

Application for review.—60. If an application for review is made to the board within seven days from the date of an award, made by less than all the members, the full board, if the first hearing was not held before the full board, shall review the evidence, or, if deemed advisable, hear the parties at issue, their representatives and witnesses as soon as practicable and shall make an award and file same, with a finding of the facts on which it is based, and the ruling of law by the full board, if any, and send a copy thereof to each of the parties in dispute, in like manner as specified in the foregoing section.

Award, when final, appeal, hearing.—61. An award of the board by less than all of the members, as provided in section 59, if not reviewed as provided in section 60, shall be final and conclusive.

An award by the full board shall be conclusive and binding as to all questions of fact, but either party to the dispute may within thirty days from the date of such award, appeal to the appellate court for errors of law under the same terms and conditions as govern appeals in ordinary civil actions.

The board, of its own motion, may certify questions of law to said appellate court for its decision and determination.

An assignment of error that the award of the full board is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the award and the sufficiency of the evidence to sustain the finding of facts.

All such appeals and certified questions of law shall be submitted upon the date filed in the appellate court, shall be advanced upon the docket of said court, and shall be determined at the earliest practicable date, without any extensions of time for filing briefs.

An award of the full board, affirmed on appeal, shall be increased thereby five per cent.

64 Judgment rendered.—62. Any party in interest may file in the circuit or superior court of the county in which the injury occurred, a certified copy of a memorandum of agreement approved by the board or of an order or decision of the board, or of an award of the board unappealed from, or of an award of the board rendered upon an appeal, whereupon said court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though said judgment had been rendered in a suit duly heard and determined by said court. Any judgment of said circuit or superior court unappealed from or affirmed on appeal or modified in obedience to the mandate of the appellate court, shall be modified to conform to any decision of the industrial board, ending, diminishing or increasing any weekly payment under the provisions of section 45 of this act upon the presentation to it of a certified copy of such decision.

Contest, not sufficient grounds.—63. If the industrial board or any court before whom any proceedings are brought under this act shall determine that such proceedings have been brought, prosecuted or defended without reasonable ground, it may assess the whole cost of the proceedings upon the party who has so brought, prosecuted or defended them.

Medical testimony.—64. The board or any member thereof may, upon the application of either party or upon its own motion appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employe and to testify in respect thereto. Said physician or surgeon shall be allowed traveling expenses and a reasonable fee to be fixed by the board not exceeding

ten dollars for each examination and report, but the board may allow additional reasonable amounts in extraordinary cases.

Attorneys' and medical fees.—65. Fees of attorneys and physicians and charges of hospitals for services under this act shall be subject to the approval of the board.

Board adjusts differences.—6. All questions arising under the act, if not settled by agreement of the parties interested therein with the approval of the board, shall be determined by the board except as otherwise herein provided for.

Report of employer, accidents.—67. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employes in the course of their employment. Within one week after the occurrence and knowledge thereof, as provided in section 22, of an injury to an employe causing his absence from work for more than one day, a report thereof shall be made in writing and mailed to the industrial board on blanks to be procured from the board for the purpose.

Upon the termination of the disability of the injured employe, or if the disability extends beyond a period of 60 days, then also at the expiration of such period the employer shall make a supplementary report to the board on blanks to be procured from the board for the purpose. The said reports shall contain the name, nature and location of the business of the employer, and name, age sex, 65 wages and occupation of the injured employe and shall state the date and hour of the accident causing the injury, the nature and cause of the injury and such other information as may be required by the board. Any employer who refuses or neglects to make the report required by this section shall be liable for a penalty of not more than twenty-five dollars for each refusal or neglect, to be recoverable in any court of competent jurisdiction in a suit by the board.

Insurance.—68. Every employer under this act shall either insure or keep insured his liability hereunder in some corporation, association or organization authorized to transact the business of the workmen's compensation insurance in this state, or shall furnish to the industrial board satisfactory proof of his financial ability to pay direct the compensation in the amount and manner and when due as provided for in this act. In the latter case the board may in its discretion require the deposit of an acceptable surety, indemnity or bond to secure the payment of compensation liabilities as they are incurred.

Evidence of compliance by employer.—69. Every employer accepting the compensation provisions of this act shall within thirty days after this act takes effect file with the board in form prescribed by it, and thereafter annually or as often as may be necessary, evidence of his compliance with the provisions of section 68 and all other relating thereto. If such employer refuses or neglects to comply with these provisions he shall be punished by a fine of ten cents

for each employe at the time of the insurance becoming due, but not less than one dollar nor more than fifty dollars for each day of such refusal or neglect and until the same ceases, and he shall be liable during continuance of such refusal or neglect to an employe either for compensation under this act or at law in the same manner as provided for in section 10.

Certificate of compliance.—70. Whenever an employer has complied with the provisions of section 68, relating to self insurance, the industrial board shall issue to such employer a certificate which shall remain in force for a period fixed by the board, but the board may upon at least sixty days' notice and a hearing to the employer revoke the certificate upon satisfactory evidence for such revocation having been presented. After the expiration of one year from such revocation the board may grant a new certificate to the employer upon his petition.

Mutual insurance associations.—71. For the purpose of complying with the provisions of section 68, groups of employers, to form mutual insurance associations of reciprocal insurance associations subject to such reasonable conditions and restrictions as may be fixed by the industrial board, are hereby authorized. Membership in such mutual insurance associations or reciprocal insurance associations so approved together with evidence of the payment of premiums due, shall be evidence of compliance with section 68.

Substitute system of compensation.—72. Subject to the approval of the industrial board any employer may enter into or continue any agreement with his employes to provide a system of compensation, benefit or insurance in lieu of the compensation and insurance provided by this act. No such substitute system shall be approved unless it confers benefits upon injured employes at least equivalent to the benefits provided by this act nor if it requires contributions from the employes unless it confers benefits in addition to those provided under this act at least commensurate with such contributions.

Such substitute system may be terminated by the industrial board on reasonable notice and hearing to the interested parties if it shall appear that the same is not fairly administered or if its operation shall disclose latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purposes of this act; and in this case the board shall determine upon the proper distribution of all remaining assets, if any, subject to the right of any party in interest to take an appeal to the appellate court.

Compulsory clause in policy.—73. All policies insuring the payment of compensation under this act must contain a clause to the effect that as between the employer and the insurer the notice to or knowledge of the occurrence of the injury on the part of the insured shall be deemed notice or knowledge, as the case may be, on the part of the insurer; that jurisdiction of the insured for the purposes of this act shall be jurisdiction of the insurer; and that the



insurer shall in all things be bound by and subject to the awards, judgments or decrees rendered against such insured.

Agreement to pay benefits.—74. No policy of insurance against liability arising under this act shall be issued unless it contains the agreement of the insurer that it will promptly pay to the person entitled to same all benefits conferred by this act, and all installments of the compensation that may be awarded or agreed upon, and that the obligation shall not be affected by any default of the insured after the injury, or by any default in the giving of any notice required by such policy or otherwise. Such agreement shall be construed to be a direct promise by the insurer to the person entitled to compensation enforceable in his name.

Approval of policy form.—75. Every policy for the insurance of the compensation herein provided, or against liability thereof, shall be deemed to be made subject to the provisions of this act. No corporation, association or organization shall enter into any such policy of insurance unless its form shall have been approved by the industrial board.

Definitions and miscellaneous provisions.—76. In this act unless the context otherwise requires:

(a) "Employer" shall include the state and any municipal corporation within the state or any political division thereof, and any individual, firm, association or corporation or the receiver or trustee of the same or the legal representatives of a deceased employer, using the services of another for pay. If the employer is insured it shall include his insurer so far as applicable.

(b) "Employee" shall include every person, including a minor, in the service of another under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation or profession of the employer.

67 Any reference to any employee who has been injured shall when the employee is dead, also include his legal representatives, dependents and other persons to whom compensation may be payable.

(c) "Average weekly wages" shall mean the earnings if the injured employee in the employment in which he was working at the time of the injury during the period of fifty-two weeks immediately preceding the date of injury, dividing by fifty-two; but if the injured employee lost more than seven consecutive calendar days during such period, although not in the same week, then the earnings for the remainder of such fifty-two weeks shall be divided by the number of weeks remaining after the time so lost has been deducted.

Where the employment prior to the injury extended over a period of less than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof, during which the employee earned wages shall be followed provided results just and fair to both parties will thereby be obtained.

Where by reason of the shortness of the time during which the



employee has been in the employment of his employer or of the casual nature or terms of the employment, it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the 52 weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer, as if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

Wherever allowances of any character made to an employee in lieu of wages are specified part of the wage contract they shall be deemed a part of his earnings.

(d) "Injury" and "personal injury" shall mean only injury by accident arising out of and in the course of the employment and shall not include a disease in any form except as it shall result from the injury.

Acts, parts invalid.—77. If any section or provision of this act be decided by the courts to be unconstitutional or valid, the same shall not affect the validity (validity) of this act as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Repeal.—78. All acts and parts of acts inconsistent with any provisions of this act are hereby repealed to the extent of such inconsistency.

Act effective.—79. This act shall take effect on the first day of September, 1915, except that Part III with the exception of section 67, shall take effect upon the passage of this act.

Appropriation.—80. For the purpose of paying the salaries and expenses of the members of the industrial board and its employes, the sum of \$70,000.00 or so much thereof as may be necessary is hereby appropriated.

Pending litigation.—81. The provisions of this act shall not affect pending litigation.

Emergency.—82. Whereas, an emergency exists for the immediate taking effect of Part III of this act with the exception of section 67, said Part III with said exception shall be in full force from and after the passage of this act.

68

Copy.

UNITED STATES OF AMERICA,  
District of Indiana:

The President of the United States of America to the Marshal of the District of Indiana, Greeting:

You are hereby commanded to summon Industrial Board of Indiana, Edgar A. Perkins, Kenneth L. Dresser, and Samuel R. Artman, as members of Industrial Board of Indiana, Edgar A. Perkins, Samuel L. Dresser and Samuel R. Artman, if they be found in

your district, to be and appear in the District Court of the United States, for the District of Indiana, aforesaid, at Indianapolis, on the — day of — next, to answer a certain Bill in Equity filed and exhibited in said Court against them by Lower Vein Coal Company.

Hereof they are not to fail under the penalty of the Law thence ensuing.

And have you then and there this writ.

Witness, the Honorable Albert B. Anderson, Judge of said Court, and the seal thereof, this 12th day of April, A. D. 1919.

[SEAL.]

NOBLE C. BUTLER,

*Clerk.*

*Memorandum.*

The said defendants are required to file their answer or other defense in this suit in the Clerk's Office of said Court on or before the twentieth day after service, excluding the day thereof; otherwise the said Bill may be taken pro confesso.

NOBLE C. BUTLER,

*Clerk.*

DISTRICT OF INDIANA:

I received this writ at Indianapolis, in said District, at — o'clock — M., on the 14th day of April, A. D. 1919, and served the same in Marion County, as follows: 14th day of April, 1919, by copy upon Industrial Board of Indiana, Edgar A. Perkins, Kenneth I. Dresser and Samuel R. Artman, as members of Industrial Board of Indiana, by reading the same to and within the hearing of, and by delivering a true copy of this writ to Edward J. Bowlman, secretary of said board, he being the highest officer of said board found in my district; and upon Edgar A. Perkins, Kenneth I. Dresser and Samuel R. Artman, by leaving a true copy of this writ for each of them, in the hands of Edward J. Bowlman, who was authorized and accepted service for each of them; at Indianapolis, Marion County, Indiana, April 14, 1919.

Marshal's Costs:

4 Services ..... \$8.00.

MARK STOREN,

*U. S. Marshal,*

By P. R. JOHN,

*Deputy.*

[Endorsed:] U. S. District Court, District of Indiana. No. 278. Lower Vein Coal Company vs. Industrial Board of Indiana et al. Subpoena in Chancery. Returnable 2nd day of June, 1919. Miller, Dailey & Thompson, Davis, Moore, Cooper, Royse & Bogart, Complainant's Solicitors.

And afterwards, to-wit: at the November Term, 1918, of said Court, on the 23rd day of April, 1919, before the Hon-

orable Albert B. Anderson, Judge of said Court, the following further proceedings in the above entitled cause were had, to-wit:

Comes now the complainant by Miller, Dailey and Thompson, its solicitors, and with leave of Court first had and obtained now files amendments to its bill of complaint, in the words and figures following to-wit:

70 In the District Court of the United States for the District of Indiana.

No. 278. In Equity.

LOWER VEIN COAL COMPANY, Plaintiff,

v.

INDUSTRIAL BOARD OF INDIANA, EDGAR A. PERKINS, KENNETH L. DRESSER and SAMUEL R. ARTMAN, as Members of the Industrial Board of Indiana; Edgar A. Perkins, Kenneth L. Dresser and Samuel R. Artman, Defendants.

*Amendments to Plaintiff's Bill of Complaint.*

The Plaintiff, having first obtained leave of Court so to do, files the following amendments to its Bill of Complaint:

1. The following amendment to be inserted immediately following sub-division 10-a of the Bill, as sub-division 10½ thereof, at line 28 on page 43 of the Bill, being in the following words, to-wit:

10½. Plaintiff alleges that the various corporations, co-partnerships and individuals engaged in the coal mining business in the state of Indiana, have hundreds of employees who are not engaged in the hazardous part of such business, but are employed above the ground, in clerical work, hauling, carpentering, and other similar occupations; that plaintiff, itself, has many employees so engaged, and that said employees last referred to, are not coal miners, and do not dig coal, and that all of said employees are, as plaintiff believes, covered by the provisions of Section 18, as amended; that plaintiff is compelled, if said Section 18, as amended, is a valid and effective law, to pay compensation to all of such employees last specifically referred to, without regard to its negligence in the premises, while other persons, co-partnerships and corporations engaged in other businesses, are not compelled to do so.

71 Plaintiff avers that practically without exception, all persons engaged as employees in the actual mining of coal, in the state of Indiana, are members of the United Mine Workers of America, which is a labor union organized and maintained for the protection of its members; that said United Mine Workers union employs, in Indiana, attorneys whom it pays by the year to attend to the interests of its members, and which attorneys are, by said union, employed to, and do prosecute, without expense to injured employees, or their de-

pendents, all suits for personal injuries brought by said members in the state of Indiana, and that, whereas in other occupations, the industrial workers have large sums of money to pay, frequently on a contingent basis, to lawyers prosecuting their suits for personal injuries, injured coal miners, and their dependents, receive, without abatement, or payment of attorney's fees, all damages recovered by them for personal injuries.

Plaintiff further avers that the persons actually employed in Indiana in the mining of coal, are paid for their services a higher rate of wages, or compensation, than any other industrial workers in Indiana, and that they are able, and many of them do, carry policies of insurance, protecting themselves and their families against the injuries resulting in accident and death.

2. An amendment to be inserted immediately following sub-division "C", at line 13, on page 46, of the Bill, being in the following words, to-wit:

Said act is invalid because it includes within its terms all employees of coal mining companies, whether engaged in the hazardous part of the coal mining business, or not, and is mandatory as to all such employees, and as to the employers of all such employees; whereas, as to employees of other private business corporations, co-partnerships and individuals, it is not mandatory as to those engaged in the non-hazardous part of such employments, but is permissive only, and excludes from its operation railroad employees engaged in train service.

73 STATE OF INDIANA,  
County of Vigo, ss:

Frank W. Richards, being first duly sworn, upon his oath says that he is the duly qualified and acting vice-president of the Plaintiff in this cause; that he makes this affidavit for and on behalf of the Plaintiff, with full power and authority so to do; that he has read over the foregoing amendments to Plaintiff's Bill of Complaint, and knows the contents thereof, and that the allegations therein contained are true, except, that as to matters alleged on information and belief and as to such matters, affiant is informed and believes them to be true.

F. W. RICHARDS.

Subscribed and sworn to before me, a Notary Public within and for said county and state, this 21st day of April, 1919.

My commission expires August 26, 1921.

FRANK J. CHAWFORD,

[SEAL.]

Notary Public.

4 And afterwards, to-wit: at the November Term, 1918, of said Court, on the 5th day of May, 1919, before the Honorable Albert B. Anderson, Judge of said Court, the following further proceedings in the above entitled cause were had, to-wit:

Come now the defendants by Ele Stansbury, Attorney General, John A. Riddle, H. A. Henderson and Taylor White Wright, their attorneys, and file their answer to the bill of complaint herein, in the words and figures following, to-wit:

*Defendants' Separate and Several Answer to Plaintiff's Amended Bill of Complaint.*

Defendants and each of them, separately and severally, for answer to plaintiff's amended Bill of Complaint aver as follows:

1. They admit all that part of the averments of plaintiff's bill contained in specification One (1) thereof.
2. They admit all that part of the averments of plaintiff's bill contained in specification Two (2) thereof.
3. They aver that the value of matter in dispute in this cause is speculative, colorable, and is not susceptible of proof and demonstration with certainty, all — which appears upon the fact of plaintiff's bill, and from the matters and facts alleged therein with reference to the value of the matter of dispute.
4. They admit all that part of the averments of plaintiff's bill contained in specification Four (4) thereof.
5. They admit all that part of the averments of plaintiff's bill contained in specification Five (5) thereof.
6. They admit all that part of the averments of plaintiff's bill contained in specification Six (6) thereof.
- 75 7. They admit all of the averments contained in subdivision Seven (7) of plaintiff's bill except that part thereof which avers that the Workmen's Compensation Act of 1915 as amended in 1917 was a permissive act, and defendants aver that said act of 1915 and as amended in 1917 was not a permissive act but was compulsory as to the State of Indiana, the political subdivisions thereof and the municipalities and the employes thereof, and expressly exempted from the provisions thereof casual laborers, farm agricultural laborers, domestic servants and their employers unless such employee and their employers voluntarily elected to be bound by said act, by giving affirmative notice as specified therein to be bound by the specifications of said act.
8. They admit that the Industrial Board of Indiana claims that said amendatory act of 1919 is valid and effective, and particularly Section 18 thereof as amended by said acts of 1919, that the provisions thereof compel and require all coal mining companies in the State, including the plaintiff, to come under said law as amended, and the jurisdiction of said Industrial Board, and that defendant Industrial Board of Indiana and each defendant hereto assert that the compulsory features of said Section 18 is a valid law, and assert that it is their intention to assume jurisdiction in all personal injury

cases and to administer the provisions of said law including Section 18 as provided in said law as amended unless enjoined from so doing by this Court, but defendants and each of them aver that plaintiff has not rejected the provisions of the Workmen's Compensation Act as amended in 1919 by the General Assembly of Indiana. Defendants and each of them further aver that said act as amended is constitutional and valid and that plaintiff is bound thereby.

76 9. They aver that as to the matters and facts set out in specification Nine (9) of plaintiff's bill, with reference to accidents which have and will occur in and about plaintiff's mines and the consequent expense of defending claims arising therefrom, defendants and each of them are without knowledge, but defendants and each of them aver that the General Assembly of the State of Indiana in enacting the amendatory act of 1919, and particularly Section 18 thereof, based the classification made in said Section 18 partially upon the following facts, viz: That many accidents had theretofore occurred in the operation of the coal mines of Indiana, including the mines of plaintiff, which accidents resulted in the death of and injuries to employees working in said mines in the course of and arising out of their employment, and that in many of such cases such employees and defendants had no redress at law, and that in such cases when such employees and defendants were afforded redress at law, such redress was found by said General Assembly inadequate, expensive and accompanied by vexatious delays, and that the occupation of mining coal had been extremely hazardous and will continue so to be, and that said occupation of coal mining theretofore contained and would continue to contain inherent hazards and dangers not encountered or contained in any other occupation, business or industry carried on in the State of Indiana.

10. Defendants and each of them aver for answer to specification Ten (10) of plaintiff's bill that they admit all the allegations contained in said specification except the averment that there are businesses conducted in the State of Indiana that are more hazardous than that of mining coal, and defendants and each of them aver that the business of mining coal is more hazardous than any other business, occupation or industry carried on and conducted in Indiana, in this, viz: That in proportion to the men employed in the business of mining coal and in the operation of coal mines, the percentage of casualties is greater than in any other business, industry or occupation; that the percentage of fatalities occurring in the operation of coal mines is greater than in any other business, occupation or industry conducted therein; that the nature and extent of injuries received by employees engaged in such business of mining coal are more serious, severe and aggravated than those received by employees in other business, industries and occupations; that the hazards and dangers inherent in the occupation of coal mines are more numerous, diverse and varied than any other occupation in Indiana. And defendants and each of them aver that the General Assembly of 1919 based the classification in part upon the foregoing facts alleged in this specification.

10½. Defendants and each of them say for answer to specification 10½ that in the business of mining coal some of the employees engaged therein are employed above ground in the performance of duties which are necessary for the practical operation of said mines, and are not engaged in the mining of coal, but defendants aver that the work performed by such employees above the ground and of those employees that mine coal are all a part of and necessary to the practical and successful operation of said mines and the marketing of the product thereof. That the per cent of employees whose duties require them to work above the ground in said mines is small, and defendants are informed and believe will not exceed on an average of ten per cent of the total employees in the business of mining coal. And defendants further aver that in the year of 1918 more than one hundred casualties occurred among the employees of coal mines in the State of Indiana whose duties require them to work above the ground, ten of which were fatalities, and defendants aver that the duties of a large per cent of the employees that work on and above the ground as aforesaid, are such as to make such employment dangerous and hazardous. Defendants further aver that all persons engaged as employees in mining coal except Company

78 men, are members of the United Mine Workers of America, and that all the employees of the bituminous mines including plaintiff's firm and comprise District No. 11 of the United Mine Workers of America, which employees number approximately Thirty Thousand (30,000) men, and that said District No. 11 United Mine Workers of America, employ attorneys at an annual salary to handle and prosecute personal injury claims and suits and compensation claims, and represent the interest of said District No. 11 in legal matters, all from funds voluntarily paid by each and all of said employees; that prior to the employment of said attorneys, practically all of the owners and operators of mines in the State of Indiana were and are now organized into an association commonly known and designated as the Indiana Coal Operators' Association, and that such association now employs and for many years has employed attorneys to look after the interests of the operators, including matters of legislation; that after the passage of the Workmen's Compensation Act as amended by the General Assembly of Indiana in 1919, such association employed attorneys to test the validity of said act, and pursuant to such employment, authorization and instructions, plaintiff's amended bill was filed for such purpose. Defendants and each of them further aver as they are informed and believe, that approximately ninety-two (92) persons, firms and corporations engaged in the operations of a majority of the coal mines in the State, are members of another reciprocal insurance organization commonly known and designated as the Indiana Coal Operators Reciprocal Organization, which organization employs and retains and has for many years employed and retained a manager, assistant manager, claim adjusters, investigators and numerous attorneys for the purpose of defending suits and securing releases from liability of personal injury claims of miners injured in the mines insured by said Reciprocal Organization, including the mines of this plaintiff, and said defendants further aver that the several persons, firms and cor-

porations composing said reciprocal insurance organization have rejected the provisions of the Workmen's Compensation Act of 1915, and as amended in 1917, and were not operating such mines under the provisions of said act at the time of the enactment of said Section 18 of said law as amended in 1919, and defendants and each of them further aver that if said Section 18 as amended in 1919 is declared to be unconstitutional and void, that the members of said organization will continue to operate their said mines under the liability laws of the state and will reject the provisions of the Workmen's Compensation Law, and that the employees and dependents thereof will thereby be deprived of the benefits of the Workmen's Compensation Laws of Indiana, and be subjected to the delays, expenses, inadequate settlements, and vexations incident to the collection and attempted collection of damages, and in many cases said employees and dependents under said liability laws will not be able to establish their causes of actions in the courts and will be entirely defeated and without any remedy or redress, and will become the objects of charity. Defendants and each of them further aver that the allegation in plaintiff's amended bill in said specification 10½ thereof, that persons employed in Indiana in mining coal are paid a higher rate of wages than any other industrial workers in Indiana is based upon statistics for the period of world war, during which time the coal mines of Indiana, including plaintiff, operated full time and full capacity, which resulted in an abnormal increase in wages, but defendants aver that prior to said war period and subsequent thereto that the earnings of the miners were and are materially less than during said war period, and that the earnings of coal miners are now materially less than many industrial workers.

11. They aver in answer to specifications Eleven (11) of plaintiff's bill, that Section 18 of the Compensation Law of  
80 Indiana as amended in 1919 is constitutional and valid for the reasons following, to-wit:

(a) The General Assembly of Indiana had the power under the 14th Amendment of the United States Constitution to make the classification as specified in Section 18 as amended in the exercise of its police power.

(b) That the classification as adopted by the Legislature as amended in 1919 is founded upon reasonable basis and does not offend as against the equal protection clause of said 14th amendment.

(c) The classification made by the Indiana General Assembly in Section 18 as amended in 1919, should be sustained upon the following facts which can have reasonably been conceived to have existed in the State of Indiana and in fact did exist at the time of the enactment of said Section, viz:

That at said time there were in operation in the State of Indiana approximately Two Hundred Thirty-nine (239) coal mines employing approximately thirty thousand (30,000) men. That said mines in the main were conducted and operated by means of shafts



sunk from the top of the ground to the vein of coal operated, and that over the top of said shafts tipples were built and constructed of iron and steel about one hundred feet high in which were constructed and built, screens, shakers, crushers, dumps and chutes so as to convey coal down to the railroad cars underneath. Railroad tracks were constructed in, about and around said tipples, engine houses, boiler houses, wash houses, blacksmith shops, and other houses were built close to said tipples, and that in said engine houses there were constructed mechanical apparatus, including cylindrical drums, around which was attached wire rope for hoisting and lowering said cage from the top of said tipples to the bottom of said shafts.

and large dynamos were built, constructed and operated  
81 which generated electricity of high and dangerous voltage for the operation of motor cars and mining machines in said mines, and from the bottom of said shafts there were cut, dug and driven entries, cross entries and air courses, and on the bottom thereof there *was* laid trackage ways which followed said seams and veins of coal up and down grades of various degrees of incline and decline. That over said veins and seams were roofs of limestone, sandstone, slate and other substances, which roofs were filled with slits and faults which made said roofs liable to fall at any time without notice or warning, and that said roofs were supported by timbers, props, caps and cross-bars; that off of said entries and cross entries there were work rooms several feet apart in which miners were digging and loading coal, and that in certain mines commonly called and designated machine mines, large mining machines would undercut the coal, which machines were propelled by means of electricity of high and dangerous voltage supplied by means of uninsulated copper wires strung along said entries, cross entries and air courses, and that after said rooms and faces of said entries were undercut, holes were drilled in said coal and powder placed therein and said coal shot and blasted down, and the loaders would load the same in coal cars which were propelled by means of mules and ponderous electric motors propelled by means of trolley wires strung along near the top of said entries, which entries ranged from seven to fourteen feet in width, and were filled with timbers, props, gob, loose slate, debris, trolley wires, machine wires and other obstructions that endangered the lives and limbs of said mule drivers, motormen and trip riders, and that said veins of coal, of which five veins were working in the bituminous fields and at least two veins were working in the block coal fields of Indiana, emitted dangerous and deadly noxious and inflammable gases which would collect in pockets in abandoned workings and other workings, and which gases frequently — ignited by the lights and *and* lamps of miners,

82 thereby causing explosions and great destruction of health and lives of numerous employees, and many of said mines contained what is commonly known as black damp that insidiously overcame and asphyxiated miners therein. That in the operation of said mines there were many and divers different ways of work and occupations and that men were injured, wounded and killed in many various ways, both below and above the ground, to-wit: on railroad

cars, screens, shakers, engine rooms, boiler rooms, pulleys, belts, dynamos, wash houses, scales, blacksmith shops, tipples, cages, bottoms of shafts, entries, cross entries, track-ways, haulage-ways, switches, frogs, uninsulated machine wires, uninsulated trolley wires, trimming flats, motor trips, motor cars, coal cars, mules, mule trips, mining machines, cutter bars, falls from roof, falls from loose coal, electrocution, falling down shafts, black damp, white damp, marsh gas, dust explosions, windy shots, shots, powder explosions, falling timbers, rubbing ribs of coal, coupling cars, falling from tail chains, and many other ways and manners both accidentally and through the carelessness, negligence, fault and omission of duty of other persons and co-employees, all of which happened prior to the meeting of the General Assembly of the State of Indiana of 1919, and which will continue to happen, and that owing to the peculiar nature of the ways and methods of mining coal in said coal mines in Indiana, said business was, is and will continue to be more hazardous, and accidents have and will occur in more varied ways than in any other business, industry or occupation, and that practically all of the other industries, and businesses of the state except the operators of coal mines, had voluntarily accepted the provisions of the Workmen's Compensation Law and were paying compensation for injuries, and that said coal industry was the only industry in Indiana that was refusing to avail itself of the provisions of the Workmen's Compensation Law of Indiana, and

83 that a large majority of the coal operators and persons, firms and corporations operating said mines had elected to reject the provisions of said Act, and the only other industry or occupation that was not operating under the provisions of said Act were the railroads, which, at the time of the meeting of the General Assembly of 1919, were being controlled and operated by the United States Government, and that the United States Railroad Administration and the employees thereof were subject to an act of Congress of the United States for the year of 1916 entitled "An Act to provide compensation for the employees of the United States suffering injuries while in the performance of their duties, and for no other purpose." And that the employees of said railroads so working for the United States Railroad Administration were not military employees but civil employees of the United States within the meaning and terms of said act of Congress.

Defendants and each of them further aver that said act is not invalid because it violates Section 23 of Article 1 of the Bill of Rights of the Constitution of the State of Indiana as charged in subdivision 2 of specification 11 of plaintiff's bill, for the following reasons and each of them, namely:

(a) Said act is a fair and reasonable classification, and the legislature in the exercise of its police power was not limited by the Indiana Constitution from making the classification named in the act.

(b) That the classification is not unjustly or unreasonably discriminatory against plaintiff and other persons, firms, partnerships and corporations engaged in the business of mining coal, and in

favor of other equally hazardous and dangerous businesses, as alleged, but defendants and each of them aver that in the exercise of its police power the classification made within said act was  
84 legitimate, reasonable and constitutional.

(c) Defendants and each of them further aver that the classification fixed by said act is just and reasonable, and founded upon conditions and facts justifying the classification.

Defendants and each of them aver that said act is valid and does not violate Section 21, Article 1 of the Bill of Rights of the Indiana Constitution, as alleged in plaintiff's bill, for the following reasons, to-wit:

(a) Because the Legislature had the constitutional right in the exercise of its police power to require the plaintiff to pay compensation to its employees pursuant to awards made by the Industrial Board of Indiana in cases where there was no negligence or fault on the part of the plaintiff, even though other persons, firms and corporations would not be subjected to the same liability because the classification contained in the act is supported upon a reasonable basis.

(b) Because in the exercise of its police power the Legislature has the right to require plaintiff to pay compensation to its employees pursuant to the awards of the Industrial Board as provided in said act, regardless of whether said injuries were proximately caused by the negligence of plaintiff.

12. The defendants and each of them aver that as to each and every averment of plaintiff's bill, not herein specifically admitted, denied or explained, defendants say that they and each of them are without knowledge.

13. Defendants and each of them aver that inasmuch therefore that plaintiff is not entitled to the relief prayed for in its bill, and that said act is valid and constitutional, as to the United States Constitution and as to the Indiana Constitution, defendants and each of them prayed that the injunction as prayed for be in all things  
85 denied, and that the interlocutory injunction be in all things dissolved, and that said Section 18 as amended be declared constitutional and valid and not in violation of the Constitution of the United States and the Constitution of the State of Indiana, and for such other and further relief in the premises as may be required by equity and good conscience.

ELE STANSBURY,

*Att'y Gen.,*

JOHN A. RIDDLE,

H. A. HENDERSON,

TAYLOR, WHITE, WRIGHT,

*Solicitors for Defendants and Each of Them.*

U. S. LESH,

HAROLD TAYLOR,

*Of Counsel for Defendants and Each of Them.*

And afterwards, to-wit: at the May Term of said Court, on the 16th day of July, 1919, before the Honorable Albert B. Anderson, Judge of said Court, the following further proceedings in the above entitled cause were had, to-wit:

This cause coming on now to be finally heard by the Court and the parties appearing by their respective solicitors and the Court having heard the evidence and the argument of counsel and being sufficiently advised in the premises, it is now ordered, adjudged and decreed that the equity of this cause is with the defendant.

It is thereupon ordered adjudged and decreed by the Court that the bill of complaint be and the same is hereby dismissed for want of equity.

And it is further ordered, adjudged and decreed by the Court that the complainant pay to the defendant its costs and charges laid out and expended herein, taxed at \$—.

86 And afterwards, to-wit: at the May Term of said Court, on the 27th day of August, 1919, before the Honorable Albert B. Anderson, Judge of said Court, the following further proceedings in the above entitled cause were had, to-wit:

Comes now the complainant by Davis, Moore, Cooper, Royse and Bogart and Miller, Dailey and Thompson, its solicitors, and files its petition for appeal and notice, which petition and notice are respectively in the words and figures following, to-wit:

*Petition for Appeal.*

To the Honorable Judge of the District Court of the United States for the District of Indiana, sitting in chancery:

Your petitioner, Lower Vein Coal Company, respectfully represents unto your Honor:

That heretofore on the 12th day of April, 1919, it filed its certain bill of complaint in the above cause in the United States District Court for the District of Indiana, against the above named defendants, and that thereafter on the 16th day of July, 1919, a decree was entered by this honorable court ordering the said bill of complaint dismissed at complainant's costs for want of equity; from which decree your petitioner hereby prays an appeal to the Supreme Court of the United States.

Your petitioner alleges that in the trial of said cause and the final decree therein by the said court, the following errors were committed:

First, In not decreeing the statute of the State of Indiana, viz: Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that the classification attempted in said amendatory act

87 is arbitrary and discriminatory and is not based upon any just or reasonable ground, and in that the General Assembly of the State of Indiana passed said law arbitrarily and without any fair reason, making the Workmen's Compensation Act of Indiana compulsory and mandatory as to persons, partnerships and corporations engaged in the business of mining coal, including complainant, and permissive or voluntary as to all other businesses within the State of Indiana, except railroad employes engaged in train service, domestic employes, and agricultural servants, to which the Act does not apply at all.

Second. In not decreeing the statute of the State of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that said Section 18 of the Workmen's Compensation Act of Indiana as amended by the General Assembly of Indiana for the year 1919, rests upon no reasonable or sound basis of classification, but on the contrary compels coal mining companies, including complainant, to operate under the law, and permits all other business corporations to reject its provisions and that this is a discriminatory classification founded on no substantial differences in the business.

Third. In not decreeing the statute of the State of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that Section 18 of the Workmen's Compensation Law of Indiana, as amended by the General Assembly of Indiana for the year 1919, deprives said Lower Vein Coal Company of its property without due process of law in violation of the provisions of the 14th Amendment to the Constitution of the United States.

Fourth. In not decreeing the statute of the State of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that Section 18 of the Workmen's Compensation Law of Indiana as amended by the General Assembly of Indiana for the year 1919 denies to the Lower Vein Coal Company the equal protection of the laws, in violation of the 14th Amendment to the Constitution of the United States, because it is not equal and uniform in its operation,

but selects the line of business in which the complainant is engaged, the same being a lawful business, and imposes onerous burdens upon such business and upon others engaged in the same business as the complainant, without imposing like burdens upon like persons engaged in similar businesses within the State of Indiana, and upon others whose businesses are equally hazardous as the business of the complainant.

Fifth. In not decreeing the statute of the State of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that Section 18 of the Workmen's Compensation Law of Indiana as amended by the General Assembly of Indiana for the year 1919, is an unwarranted abridgement of the rights and privileges guaranteed to said Lower Vein Coal Company by the 14th Amendment to the Constitution of the United States in that it is arbitrarily and unjustly discriminatory, is partial, unreasonable, oppressive and unequal.

Sixth. In not decreeing the statute of the State of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that it deprives said Lower Vein Coal Company of its property without due process of law, in violation of the 14th Amendment to the Constitution of the United States, because it imposes burdens upon said complainant not imposed upon other persons, partnerships and corporations similarly situated and engaged in businesses of equal or greater hazard.

Seventh. In not decreeing the statute of the state of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that Section 18 of the Workmen's Compensation Law of Indiana as amended by the General Assembly of Indiana for the year 1919, is invalid because it violates Section 23, Article 1 of the Bill of Rights of the Constitution of the State of Indiana, which provides:

"That the General Assembly shall not grant to any citizen or class of citizens, privileges and immunities which upon the same terms shall not equally belong to all citizens."

and because said act in violation of said constitutional provision, does grant to other citizens and classes of citizens the privilege and immunity of not coming under the provisions of said law which it does not grant upon the same terms and equally to the complainant and other persons engaged in mining coal in the State of Indiana, and because there is no basis for the classification fixed by said act, and because said classification is unjust, oppressive and discriminatory.

Eighth. In not decreeing the statute of the State of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that Section 18 of the Workmen's Compensation Law of Indiana as amended by the General Assembly of Indiana for the year 1919, is invalid because it violates Section 21 of Article 1 of the Bill of Rights of the Constitution of the State of Indiana which provides that:

"No man's particular services shall be demanded without just compensation. No man's property shall be taken by law without just compensation; nor except in the case of the state, without such compensation first assessed and tendered."

because in violation of said constitution and provision, complainant's property would be taken by awards made by the Industrial Board of Indiana, where there was no negligence or fault upon the part of the complainant, and other persons, firms and corporations engaged in businesses equally or more hazardous would not be subjected to the same liability, and because the private property of the complainant would be taken by virtue of the awards of the Industrial Board of Indiana, without any negligence on the part of the complainant, and in disregard of the question as to whether or not complainant was negligent, for the public purpose of protecting the State of Indiana, and without compensation to the complainant.

Ninth. In not decreeing the statute of the State of Indiana viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that Section 18 of the Workmen's Compensation Law of Indiana as amended by the General Assembly of Indiana for the year 1919, is invalid because it includes within its terms all employees of coal mining companies whether engaged in the hazardous part of the coal mining business or not, and is mandatory as to all such employees, and as to the employers of all such employees, includ-



ing complainant. Whereas as to other employers it is not mandatory as to those employes engaged in the non-hazardous part of such employments and therefore said amended Section 18 violates Section 23 of Article 1 of the Bill of Rights of the Constitution of the State of Indiana, which provides that the General Assembly shall not grant to any citizen or class of citizens privileges and immunities which upon the same terms shall not belong equally to all such persons.

Tenth. In dismissing complainant's bill of complaint.

For all of which errors and imperfections in the decree rendered herein and in the trial of this cause, your petitioner is desirous of appealing to the Supreme Court of the United States as hereinbefore alleged.

Your petitioner therefore prays for an order granting it an appeal to the Supreme Court of the United States from the decree and the decision rendered in this cause, and that the clerk of this court be directed to issue a citation of the appeal hereof to the appellees herein and to each of them.

LOWER VEIN COAL COMPANY,  
By DAVIS, MOORE, COOPER, ROYCE  
& BOGART,  
MILLER, DAILEY & THOMPSON,  
W. H. THOMPSON.

*Its Solicitors.*

The undersigned solicitor for the defendants in the above entitled cause acknowledges service of the above and foregoing petition for an appeal, and the receipt of a copy thereof this 27th day of August, 1919.

ELE STANSBURY,  
*Attorney General of Indiana.*  
*Solicitor for Defendants.*

In the United States District Court for the District of Indiana.

No. 278, In Equity.

LOWER VEIN COAL COMPANY, Complainant,

vs.

INDUSTRIAL BOARD OF INDIANA, EDGAR A. PERKINS, KENNETH L. Dresser, and Samuel R. Artman, as Members of the Industrial Board of Indiana; Edgar A. Perkins, Kenneth L. Dresser, Samuel R. Artman, Defendants.

*Notice.*

To the Defendants in the above entitled cause:

Please take notice that on the 29th day of September, A. D. 1919, at the hour of ten o'clock in the forenoon, or as soon thereafter as



counsel can be heard, the plaintiff, through its solicitors, will appear before the Honorable Albert B. Anderson, District Judge of the United States for the District of Indiana, in the court room in the Federal Building in the City of Indianapolis, Indiana, and will present the petition of Lower Vein Coal Company, praying an appeal in said above entitled cause to the Supreme Court of the United States, at which time and place you may appear if you see fit.

DAVIS, MOORE, COOPER, ROYSE & BOGART,  
MILLER, DAILEY & THOMPSON,  
W. H. THOMPSON,

*Solicitors for Complainant.*

94 The undersigned solicitor for the defendants in the above entitled cause acknowledges service of the above and foregoing notice on this the 27th day of August, A. D. 1919, and the receipt of a copy thereof.

ELF STANSBURY,  
*Attorney General of Indiana,*  
*Solicitor for Defendants.*

95 And afterwards, to-wit: at the May Term of said Court, on the 29th day of September, 1919, before the Honorable Albert B. Anderson, Judge of said Court, the following further proceedings in the above entitled cause were had, to-wit:

96 In the District Court of the United States for the District of Indiana.

No. 278, In Equity.

LOWER VEIN COAL COMPANY, Complainant.

VS.

INDUSTRIAL BOARD OF INDIANA, EDGAR A. PERKINS, KENNETH L. DRESSER and SAMUEL R. ARTHUR, as Members of the Industrial Board of Indiana; Edgar A. Perkins, Kenneth L. Dresser, Samuel R. Arthur, Defendants.

On this, the 29th day of September, 1919, comes the complainant herein, by Davis, Moore, Cooper, Royse & Bogart, and Miller, Dailey & Thompson, its solicitors, and having presented to the court its petition praying for the allowance of an appeal to the Supreme Court of the United States, intended to be made and taken by it, and also praying that a transcript of the record, proceedings and papers upon which the decree herein was written and rendered, duly authenticated, may be sent to the Supreme Court of the United States, and that such other and further proceedings may be had as may be proper in the premises.

And the court now allows said appeal and fixes the appeal bond to be given by the complainant in the sum of Five Hundred Dollars (\$500.00) with A. M. Ogle & W. E. Eppert, as sureties thereon, and the said complainant now files said bond with A. M. Ogle & W. E. Eppert, as sureties, in the penal sum of Five Hundred Dollars (\$500.00) conditioned as required by law, and said bond and the sureties thereon are approved by the court.

Now, in consideration thereof, the court does allow the said appeal.

And afterwards, to-wit: at the May Term of said Court, on the 29th day of September, 1919, before the Honorable Albert B. Anderson, Judge as aforesaid of said Court, the following further proceedings in the above entitled cause were had, to-wit:

No. 278, In Equity.

LOWER VEIN COAL COMPANY, Complainant,

vs.

INDUSTRIAL BOARD OF INDIANA, EDGAR A. PERKINS, KENNETH L. DRESSER and SAMUEL R. ARTMAN, as Members of the Industrial Board of Indiana; EDGAR A. PERKINS, KENNETH L. DRESSER, and SAMUEL R. ARTMAN, Defendants.

*Order Enlarging Time to File Record.*

It appearing to the court that the complainant in the above entitled cause has been allowed an appeal to the Supreme Court of the United States, and a citation thereon has been issued and served, which citation was made returnable on the 25th day of October, 1919, but the rules of said Supreme Court require the record of said cause to be filed in the office of the Clerk of the Supreme Court of the United States on or before said return day, to-wit, the 25th day of October, 1919, unless prior to said last named day the time for such filing shall be enlarged, and said complainant having appeared before this court asking that said time should be enlarged and having shown good cause therefor and the defendants having consented thereto:

It is ordered that the time within which said complainant shall file the record on said appeal in the office of the clerk of said Supreme Court of the United States, be and the same hereby is, enlarged so as to extend to and include the 18th day of November, 1919.

And at the same time on said 29th day of September, 1919, before the Honorable Albert B. Anderson, Judge of said Court, the following further proceedings in the above entitled cause were had, to-wit:

Now at this time comes the complainant and presents and files

its appeal bond herein in the penalty of Five Hundred Dollars, with A. M. Ogle and W. E. Eppert as sureties, which bond is approved by the Court, and is as follows, to-wit:

Know all men by these presents, that we, Lower Vein Coal Company, as principal, and A. M. Ogle and W. E. Eppert, as sureties, of the County of Vigo, State of Indiana, are held and firmly bound unto the Industrial Board of Indiana, Edgar A. Perkins, Kenneth L. Dresser, and Samuel R. Artman, as members of the Industrial Board of Indiana, and Edgar A. Perkins, Kenneth L. Dresser and Samuel R. Artman, in the sum of Five Hundred Dollars (\$500.00) lawful money of the United States, to be paid to them and their respective executors, administrators and successors; to which payments, well and truly to be made, we bind ourselves and each of us, jointly and severally, and each of our heirs, executors, and administrators, by these presents.

Scaled with our seals and dated this 26th day of September, 1919.

Whereas the above named Lower Vein Coal Company has perfected an appeal to the Supreme Court of the United States to reverse the judgment of the District Court for the District of Indiana in the above entitled cause:

Now, therefore, the condition of this obligation is such that if the above named Lower Vein Coal Company shall prosecute its said appeal to effect and answer all costs if it fail to make good its plea, then this obligation shall be void; otherwise to remain in full force and effect.

101

LOWER VEIN COAL COMPANY,  
By F. W. RICHARDS,

*President;*

A. M. OGLE,  
W. E. EPERT.

Attest:

F. C. FISBECK,  
[SEAL.] *Secretary.*

STATE OF INDIANA,  
County of Vigo, ss:

On the 26 day of September, 1919, personally appeared before me the Lower Vein Coal Company by its President, F. W. Richards, to me well known to be such Vice-President, and A. M. Ogle and W. E. Eppert, respectively known to me to be the persons described in and who duly executed the foregoing instrument as parties thereto, and respectively acknowledged each for himself, that they executed the same as their free act and deed for the purposes therein set forth.

And the said A. M. Ogle and W. E. Eppert being respectively by me duly sworn, says, each for himself and not one for the other, that he is a resident and householder of the said county of Vigo and that

he is worth the sum of \$25,000.00 over and above his just debts and legal liability and property exempt from execution.

LOWER VEIN COAL COMPANY,  
By F. W. RICHARDS,

*President;*

A. M. OGLE,

W. E. EPPERT.

Subscribed and sworn to before me this 26 day of September, 1919.  
[SEAL.] FRANK J. CRAWFORD,

*Notary Public.*

My commission expires August 20, 1921.

Approved this 29th day of September, 1919.

ALBERT B. ANDERSON,

*Judge.*

And at the same time on said 29th day of September, 1919, before the Honorable Albert B. Anderson, Judge of said Court, the following further proceedings in the above entitled cause were had, to-wit:

Comes now the complainant by counsel, and files its assignment of errors herein, in the words and figures following, to-wit:

102 In the District Court of the United States for the District of Indiana.

No. 278, In Equity.

LOWER VEIN COAL COMPANY, Complainant,

vs.

INDUSTRIAL BOARD OF INDIANA, EDGAR A. PERKINS, KENNETH L. Dresser, and Samuel R. Artman, as Members of the Industrial Board of Indiana; Edgar A. Perkins, Kenneth L. Dresser, and Samuel R. Artman, Defendants.

*Assignment of Errors to the Supreme Court of the United States.*

Comes now the Lower Vein Coal Company, by Davis, Moore, Cooper, Royse & Bogart, and Miller, Dailey & Thompson, its solicitors, and says that in the record and proceedings, and in rendering the decree in the above cause, there is manifest error in this, to-wit:

First, In not decreeing the statute of the State of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act which was and is Chapter 106 of laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly for the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that classification attempted in said amendatory act is

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arbitrary and discriminatory and is not based upon any just or reasonable ground, and in that the General Assembly of the State of Indiana passed said law arbitrarily and without any fair reason, making the Workmen's Compensation Act of Indiana compulsory and mandatory as to persons, partnerships and corporations engaged in the business of mining coal, including complainant, and permissive or voluntary as to all other businesses within the State of Indiana; except railroad employes engaged in train service, domestic employes, and agricultural servants, to which the act does not apply at all.

Second. In not decreeing the statute of the State of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that said Section 18 of the Workmen's Compensation Act of Indiana as amended by the General Assembly of Indiana for the year 1919, rests upon no reasonable or sound basis of classification, but on the contrary compels coal mining companies, including complainant, to operate under the law and permits all other business corporations to reject its provisions and that this is a discriminatory classification founded on no substantial differences in the business.

104 Third. In not decreeing the statute of the State of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that Section 18 of the Workmen's Compensation Law of Indiana, as amended by the General Assembly of Indiana for the year 1919, deprives said Lower Vein Coal Company of its property without due process of law in violation of the provisions of the 14th Amendment to the Constitution of the United States.

Fourth. In not decreeing the statute of the State of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that Section 18 of the Workmen's Compensation Law of Indiana as amended by the General Assembly of Indiana for the year 1919, denies to the Lower Vein Coal Company the equal protection of the laws, in violation of the 14th Amendment to the Constitution of the United States, because it is not equal and uniform in its operation, but selects the line of business in which

the complainant is engaged, the same being a lawful business, and imposes onerous burdens upon such business and upon others engaged in the same business as the complainant, without imposing like burdens upon like persons engaged in similar businesses within the State of Indiana, and upon others whose businesses are equally hazardous as the business of the complainant.

Fifth. In not decreeing the statute of the State of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that Section 18 of the Workmen's Compensation Law of Indiana as amended by the General Assembly of Indiana for the year 1919, is an unwarranted abridgement of the rights and privileges guaranteed to said Lower Vein Coal Company by the 14th Amendment to the Constitution of the United States in that it is arbitrarily and unjustly discriminatory, is partial, unreasonable, oppressive and unequal.

Sixth. In not decreeing the statute of the state of Indiana, viz., Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the state of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that it deprives said Lower Vein Coal Company of its property without due process of law, in violation of the 14th Amendment to the Constitution of the United States, because it imposes burdens upon said complainant not imposed upon other persons, partnerships and corporations similarly situated and engaged in businesses of equal or greater hazard.

Seventh. In not decreeing the statute of the State of Indiana, viz, Section 18 of an act approved March 8th, 1915, known as the Indiana Workmen's Compensation Act, which was and is Chapter 106 of the laws of the General Assembly of the State of Indiana for the year 1915, as amended by the General Assembly of the State of Indiana for the year 1919, being Chapter 57 of the laws of the General Assembly of the State of Indiana for the year 1919, unconstitutional and void, in that Section 18 of the Workmen's Compensation Law of Indiana as amended by the General Assembly of Indiana for the year 1919, is invalid because it violates Section 23, Article 1, of the Bill of Rights of the Constitution of the State of Indiana, which provides:

"That the General Assembly shall not grant to any citizen or class of citizens, privileges and immunities which upon the same terms shall not equally belong to all citizens."

and because said act in violation of said constitutional provision, does grant to other citizens and classes of citizens the privilege and immunity of not coming under the provisions of said law which it does not grant upon the same terms and equally to the complainant and other persons engaged in mining coal in the State of Indiana, and because there is no basis for the classification fixed by said act, and because said classification is unjust, oppressive and discriminatory.

Eighth. In not decreeing the statute of the State of Indiana, viz.,  
 Section 18 of an act approved March 8th, 1915, known as  
 107 the Indiana Workmen's Compensation Act, which was and is  
 Chapter 106 of the laws of the General Assembly of the State  
 of Indiana for the year 1915, as amended by the General Assembly  
 of the State of Indiana for the year 1919, being Chapter 57 of the laws  
 of the General Assembly of the State of Indiana for the year 1919,  
 unconstitutional and void, in that Section 18 of the Workmen's  
 Compensation Law of Indiana as amended by the General Assembly  
 of Indiana for the year 1919, is invalid because it violates Section  
 21 of Article 1 of the Bill of Rights of the Constitution of the State  
 of Indiana which provides that:

"No man's particular services shall be demended without just compensation. No man's property shall be taken by law without just compensation; nor except in the case of the state, without such compensation first assessed and tendered."

because in violation of said constitution and provision, complainant's property would be taken by awards made by the Industrial Board of Indiana, where there was no negligence or fault upon the part of the complainant, and other persons, firms and corporations engaged in businesses equally or more hazardous would not be subjected to the same liability, and because the private property of the complainant would be taken by virtue of the awards of the Industrial Board of Indiana, without any negligence on the part of the complainant, and in disregard of the question as to whether or not complainant was negligent, for the public purpose of protecting the State of Indiana, and without compensation to the complainant.

Ninth. In not decreeing the statute of the State of Indiana, viz.,  
 Section 18 of an act approved March 8th, 1915, known as the In-  
 diana Workmen's Compensation Act, which was and is Chapter 106  
 of the laws of the General Assembly of the State of Indiana  
 108 for the year 1915, as amended by the General Assembly of  
 the State of Indiana for the year 1919, being Chapter 57 of  
 the laws of the General Assembly of the State of Indiana for the  
 year 1919, unconstitutional and void, in that Section 18 of the Work-  
 men's Compensation Law of Indiana as amended by the General  
 Assembly of Indiana for the year 1919, is invalid because it in-  
 cludes within its terms all employes of coal mining companies  
 whether engaged in the hazardous part of the coal mining business  
 or not, and is mandatory as to all such employees, and as to em-  
 ployers of all such employees, including complainant. Whereas

as to other employers it is not mandatory as to those employees engaged in the non-hazardous part of such employments and therefore said amended Section 18 violates Section 23 of Article 1 of the Bill of Rights of the Constitution of the State of Indiana, which provides that the General Assembly shall not grant to any citizen or class of citizens privileges and immunities which upon the same terms shall not belong equally to all of such persons.

Tenth. In dismissing complainant's bill of complaint.

By reason whereof complainant prays that said decree may be reversed, and for its costs herein, and for all other relief in the premises as equity may require and which to your Honors shall seem meet.

DAVIS, MOORE, COOPER, ROYSE &  
BOGART,  
MILLER, DAILEY & THOMPSON,  
W. H. THOMPSON,

*Solicitors for Complainant.*

109 The undersigned solicitor for the defendants in the above entitled cause acknowledges service of the above and foregoing assignment of errors to the Supreme Court of the United States, and receipt of a copy thereof, this 29th day of September, 1919.

ELE STANSBURY,  
*Attorney General of Indiana,*  
*Solicitor for Defendants.*

110 And at the same time on said 29th day of September, 1919, before the Honorable Albert B. Anderson, Judge of said Court, the following further proceedings in the above entitled cause were had, to-wit:

Comes now the complainant, by counsel, and files its praecipe for transcript of record and lodges its condensed statement of evidence herein with copy of notice to defendants.



111 In the District Court of the United States for the District of Indiana.

No. 278, in Equity.

LOWER VEIN COAL COMPANY, Complainant,  
vs.

INDUSTRIAL BOARD OF INDIANA, EDGAR A. PERKINS, KENNETH L. DRESSER, and Samuel R. Artman, as Members of the Industrial Board of Indiana; Edgar A. Perkins, Kenneth L. Dresser, Samuel R. Artman, Defendants.

*Præcipe.*

To Noble C. Butler, Clerk of the United States District Court for the District of Indiana:

Will the clerk please include and insert in the record on appeal of the above entitled cause in equity to the Supreme Court of the United States the following pleadings, files and papers, to wit:

Plaintiff's bill of complaint and exhibits thereto.

Subpoena and return of marshal thereon.

Amendment to bill of complaint.

Answer of defendants to bill of complaint.

Condensed statement of the evidence taken in said cause in narrative form as filed in the office of the Clerk by plaintiff and as approved by the judge of said court, including order approving same.

Plaintiff's petition for appeal.

112 Order of court allowing appeal.

Plaintiff's appeal bond, and approval endorsed thereon.

Order of court extending time for filing transcript.

Plaintiff's assignment of errors.

Notice of appellant to appellees of lodgment of condensed statement of evidence in clerk's office.

Also including on each of the above papers acknowledgment of service on appellees as the same appear thereon.

Also this præcipe.

Final Decree.

Dated this 29th day of September, 1919.

DAVIS, MOORE, COOPER, ROYCE &  
BOGART,  
MILLER, DAILEY & THOMPSON,  
W. H. THOMPSON,

*Solicitors for Plaintiff.*

The undersigned solicitor for defendants and appellees in said cause acknowledges service of the above and foregoing præcipe and receipt of a copy thereof this 29th day of September, 1919.

ELE STANSBURY,  
*Attorney General of Indiana, Solicitor  
for Defendants and Appellees.*

113 In the District Court of the United States for the District of Indiana.

No. 278, in Equity.

LOWER VEIN COAL COMPANY, Complainant,

vs.

INDUSTRIAL BOARD OF INDIANA, EDGAR A. PERKINS, KENNETH L. DRESSER, and Samuel R. Artman, as Members of the Industrial Board of Indiana; Edgar A. Perkins, Kenneth L. Dresser, Samuel R. Artman, Defendants.

To the Defendants in the Above Entitled Cause:

You are hereby notified that on this, the 29th day of September, 1919, the undersigned, Lower Vein Coal Company, complainant and appellant in the above cause, has lodged in the office of the clerk of the United States District Court for the District of Indiana, in the Federal Building in the City of Indianapolis, Indiana, a condensed statement of all the evidence in said cause for use on appeal of said cause to the Supreme Court of the United States.

You are further notified that on the 7th day of October, 1919, at ten o'clock A. M., or as soon thereafter as counsel can be heard, the complainant and appellant in said cause will ask the court and the judge thereof to approve said condensed statement.

114 If you care to present any objection to said statement, or to ask for any modification or amendment thereof, you should be present at said time and place.

DAVIS, MOORE, COOPER, ROYCE & BOGART,

MILLER, DAILEY & THOMPSON,  
W. H. THOMPSON,

*Solicitors for Complainant and Appellant.*

The undersigned solicitor for the defendants in the above cause acknowledges service of above notice and receipt of a copy thereof this 29th day of September, 1919.

ELE STANSBURY,

*Attorney General of Indiana,  
Solicitor for Plaintiff.*

115 And afterwards, to wit: at the May Term of said Court, on the 7th day of October, 1919, before the Honorable Albert B. Anderson, Judge of said Court, the following further proceedings in the above entitled cause were had, to wit:

Comes now the complainant by counsel and files its Condensed Statement of Evidence herein duly approved by the Court, in the words and figures following, to wit:

116 In the District Court of the United States for the District of  
Indiana.

No. 278, in Equity.

LOWER VEIN COAL COMPANY, Complainant,

VS.

INDUSTRIAL BOARD OF INDIANA, EDGAR A. PERKINS, KENNETH L. DRESSER, and Samuel R. Artman, as Members of the Industrial Board of Indiana; Edgar A. Perkins, Kenneth L. Dresser, Samuel R. Artman, Defendants.

*Condensed Statement of the Evidence in Said Cause, for Use on Appeal to the Supreme Court of the United States.*

Complainant's Evidence.

*Stipulation.*

It was agreed that either party might offer in evidence any publication or document purporting to have been issued by authority of either the state or national Government, or of any of the official departments thereof; that no objection would be interposed to the introduction of any such publication or document upon the grounds that they have not been duly authenticated by the proper  
117 public officers.

It was stipulated that complainant, Lower Vein Coal Company rejected the provisions of the Workmen's Compensation Act of Indiana of 1915, as amended in 1917, and that the said complainant took all the steps required by law for the purpose of effectuating such rejection; that prior to November 1, 1917, said complainant had placed on file with the Industrial Board of Indiana a written rejection, in full compliance with the provisions of said law on the form prescribed by said Industrial Board, and that said written rejection had never been withdrawn or held insufficient, and that complainant prior to said date had posted a notice in its mines, offices and shops that complainant had rejected the provisions of said law, which notice was in the form prescribed by the said Industrial Board, and on compliance with the law.

HOWE S. LANDERS testified on direct examination:

Was Secretary of the Industrial Board of Indiana from May 1, 1915, to October 30, 1918; is familiar with Year Book of Indiana, which, so far as statistics from the Industrial Board are concerned, is prepared under the supervision and direction of the Secretary of said Board, except those statistics relating to the  
118 Inspection Department; has compiled data for the year ending October 30, 1918, with reference to number of employees in

Indiana in certain specified businesses, number of accidental injuries to such employees, and the percentage of injuries to the total number of men employed; that this data was compiled from an inspection of the reports of the several employers, made in pursuance of the statute of Indiana, to the License Department of the Industrial Board of Indiana.

The following table shows the character of the industry, the number of employees, the number of accidents and the percentages of accidents to number of employees:

119	Character of industry.	No. of employees.	No. of accidents.	Per cent.
	Transfer, storage & warehouse.....	604	262	42.2
	General Contracting .....	5,357	1,217	22.7
	Gas Manufacturing .....	2,508	457	18.2
	Iron and Steel Companies.....	27,720	3,446	12.5
	Oil Refining .....	5,129	591	11.5
	Glass Manufacturing .....	8,377	949	11.3
	Stone Quarrying and cutting.....	2,315	263	11.3
	Iron, steel and allied industries, including metal finishers, saw manufacturing, stove manufacturing, foundries, castings and forgings..	59,516	6,096	10.24
	Veneer Manufacturing .....	1,279	126	9.8
	Cement Manufacturing .....	2,037	203	9.9
	Furniture manufacturing & repairs..	11,158	1,050	9.4
	Manufacture of explosives .....	817	73	8.9
	Coal Mining .....	26,877	2,162	8.04

#### Cross-examination:

That all industrial employers who employed five or more men were required by law to file an annual report and pay a fee to the Industrial Board, the amount of the fee depending upon the number of employees; that the reporting of accidents is required by the Workmen's Compensation Act; that the number of accidents in the data compiled was taken from the reports made under the Workmen's Compensation Act; that the employer is obligated by the Workmen's Compensation Act to make a report of all accidents to all employees which occasion a disability for work of more than one day, and the figures as to the number of accidents in these several industries were taken from these reports so made pursuant to the statute; that the law requires a report of all accidents, regardless of the number of employees or whether the employer is subject to the terms of the compensation law; that the number of employees comes from the reports made by employers who employ five or more men, while the number of accidents is obtained from the reports of accidents made by all employers, whether employing more than five or less than five.

(The Court then inquired whether the inclusion in the number of accidents of reports from employers who have less than five in their employ would substantially affect the result, to which the Chair-

man of the Industrial Board replied that it would very much  
121 affect the result in some instances, especially in the storage  
and transfer business, where it is known that a very large  
number of people engaged in that business have fewer than five  
employees, and that a very great number of accidents reported are  
from employers having less than five employees.)

That witness has not made any computation from the official records that would assume to show the gross number of employees and the gross number of accidents within the several particular industrial occupations; that this information could only be compiled after a long and laborious amount of work; that witness did not go into the relative degree of disability at all; that in compiling the data on the coal mining industry witness included the gross number of employees reported to the License Department, including those working above ground as well as under-ground; that the great majority of employers of labor in Indiana, other than in the coal mining business have elected to operate under the compensation law.

Redirect examination:

That during the time witness was Secretary of the Industrial Board he knew of two concerns engaged in the business  
122 of manufacturing gas in Indiana that employed less than five  
men; that in the opinion of witness, all glass manufacturers in Indiana employed more than five men; this is true of the oil refining business; cannot say about the manufacture of explosives; that all employers in Indiana engaged in the manufacture of steel and iron have more than five employees; this is true of cement manufacturers; that the great majority of the producers of coal also employ more than five men; that witness's testimony as to the number of employees in various businesses is based upon his impression gathered from his work and his experience and from general knowledge of industrial conditions in Indiana.

Questions by Judge Artman, Chairman of Industrial Board:

That the Industrial Board does not keep any record that purports to give the names of all employers in any class of industry; that the record that it kept prior to the enactment of House Bill No. 110 in 1919 applies only to those employers having five or more men, so that the data compiled with reference to the transfer and storage business does not contain the names of all employers; that a very large per cent of the employers engaged in the transfer and storage  
business employ less than five people; that the number of in-  
123 juries reported in this business is 221, including the employees of persons employing five or more and those employing fewer than five; that it would be possible to ascertain how many of those 221 injured employees were included within the 604 employees reported in the transfer and storage business.

(NOTE.—Witness subsequently made this investigation and found that out of the 221 accidents reported, 97 accidents were to the em-

ployees of persons having five or more employees. This makes the comparative list on transfer and storage business as follows:

Number of employees .....	604
Number of accidents .....	97
Percentage .....	16)

That the injuries to men engaged in the storage and warehouse business are as a rule minor injuries; that the injuries to employees engaged in the coal mining business are as a rule severe; that the injuries to persons engaged in the coal mining business, as to disfigurement or marring the appearance of the employees, are very severe; that the reports of employees engaged in the coal mining business show a greater per cent of disfigurement and marring of the appearance of the person, on the head and face, than in any other industry in the state.

#### 124 Redirect examination:

That Judge Artman in his cross-examination selected the one industry, that is, the transfer, storage and warehouse business, in which there are many people engaged having less than five employees.

The complainant introduced a table of dismemberments, classified by industries for the year ending Sept. 30, 1918, as appearing in the Year Book, as follows:

125

#### Dismemberments.

Classified as to industry.

Total number of accidents.

Number reported .....	772
Agricultural implements .....	12
Auto manufacturing and accessories .....	66
Awning and tent manufacturing .....	1
Agriculture .....	1
Baby carriage manufacturing .....	6
Brick manufacturing .....	3
Basket manufacturing .....	3
Boiler manufacturing and repairs .....	3
Breweries .....	1
Box manufacturing .....	10
Butchers and meat markets .....	3
Book and stationery .....	3
Boots and shoe manufacturers and deals .....	3
Bakeries .....	6
Bicycles, motorcycles and parts .....	1
Canning and preserving .....	4
Car manufacturing and repairs .....	18
Carriage and wagon manufacturing and parts .....	17
126 Coal dealers .....	4
Coal mining .....	32
Coffin manufacturing and undertakers' supplies .....	3

Classified as to industry.	Total number of accidents.
Commercial heat, light and power .....	10
Can manufacturing .....	5
Chemical manufacturers and dealers .....	3
Cotton mills-textile manufacturing .....	4
Cresoting .....	1
Cutlery .....	1
Corn products .....	1
Confectioners .....	1
Cement manufacturing .....	3
Coatings .....	11
Chain manufacturing .....	8
Clothing manufacturing .....	3
Cleaners and dyers .....	1
Clay manufacturing and potteries .....	1
Contractors, railroad .....	4
Contractors, general .....	14
127 Contractors, bridge and structural iron .....	8
Contractors, marble workers .....	1
Contractors, road, slate, etc. ....	1
Contractors, rivers and harbors .....	1
Contractors, plumbers .....	4
Contractors, stone masons .....	1
Distillery .....	1
Dry goods and general merchandise .....	1
Dairy products .....	1
Electrical and gas fixtures .....	27
Electric railways .....	5
Excelsior manufacturing .....	1
Enamelware manufacturing .....	4
Express companies .....	3
Envelope manufacturing .....	1
Food products manufacturing .....	1
Forging .....	12
Fence manufacturing .....	1
Fireproof articles .....	2
Fireless cookers .....	2
Furniture manufacturers and dealers .....	64
128 Foundry .....	5
Flour and grist mills .....	3
Furnace manufacturing and repairs .....	1
Gas manufacturing .....	5
Glass manufacturing .....	9
Grocers, wholesale and retail .....	5
Garage .....	5
Glove manufacturing .....	2
Glue manufacturing .....	1
Grain elevators and dealers .....	1
Hardware .....	5

Classified as to industry.

Total number of accidents.

Handicraft manufacturing .....	3
Hauling .....	1
Hotels .....	3
Homes, aged, orphans', soldiers', etc. ....	1
Harness and saddlery .....	3
Hospital .....	3
Ice cream and cold storage .....	1
Iron and steel .....	32
Insurance .....	3
129 Insulation manufacturing .....	3
Junk dealers .....	2
Lodges .....	1
Locomotive headlights .....	2
Lumber manufacturing and dealers .....	19
Laundries .....	1
Liquor dealers .....	1
Machinery and machine shops .....	42
Mattresses .....	1
Meat packers .....	6
Match manufacturing .....	1
Metal refining .....	3
Musical instruments .....	16
Newspapers .....	5
Novelty manufacturing .....	1
Oil refining .....	2
Paper manufacturing .....	4
Printing and publishing .....	1
Planing mills .....	7
Pump and tank manufacturing .....	12
Paint and varnish .....	1
130 Quilt manufacturing .....	1
Rubber manufacturing and vulcanizing .....	5
Rope and twine manufacturing .....	1
Restaurants .....	1
Regalia and uniform manufacturing .....	1
Specialty manufacturing .....	4
Saw mills .....	5
Scale manufacturing .....	2
Soap manufacturing and washing powder manufacturing .....	2
Steam railroads .....	12
Steel and wire .....	3
Stone (cutting and quarries) .....	2
Sugar manufacturing .....	1
Surgical and hospital supplies .....	1
Stencils, seals, etc. ....	6
Schools and universities .....	1
Sewing machines manufacturing and repairs .....	1
Sheet metal workers .....	1



Classified as to industry.	Total number of accidents.
Toy manufacturing .....	2
Tool manufacturing .....	10
131 Threshermen .....	7
Telephones and telegraphs .....	5
Typewriting machines and stenotypes .....	1
Transfer storage and warehouse .....	1
Veneer manufacturing .....	1
Miscellaneous or unclassified .....	5

The complainant then introduced in evidence the statistical report of the Industrial Board of Indiana of accidents from October 1, 1917, to October 1, 1918, classified as to industries, appearing in the 1918 Year Book of Indiana, which is as follows:

132 *Statistical Report.—Accidents from October 1, 1917 to October 1, 1918.*

Classified as to industry.	Total number of accidents.
Abattoir .....	106
Aeroplanes .....	2
Agricultural implements .....	243
Auto mfg., includes body, tops and repairs .....	196
Awnings and tent manufacturing .....	40
Agriculture .....	45
Amusements .....	103
Baling Hay, hemp, straw, etc. ....	3
Baby carriage manufacturing .....	57
Bag manufacturing .....	16
Bank and trust companies .....	15
Bakeries .....	155
Baking powder manufacturing .....	4
Barber shops and baths .....	5
Basket manufacturing .....	60
Bed spring manufacturing .....	16
133 Bicycles, motorcycles and parts .....	21
Bill posting .....	4
Blacksmith .....	18
Boats and barges, manufacturing and repairs .....	4
Boiler manufacturing .....	69
Books and stationery .....	7
Boots and shoe manufacturers and dealers .....	42
Bottlers .....	41
Bowling and billiards .....	4
Box manufacturing .....	228
Brass foundries .....	52
Breweries .....	145
Brick, tile manufacturing and sewer pipe .....	277

Classified as to industry.

Total number of accidents.

Brush and broom manufacturing.....	20
Butchers and meat markets.....	52
Buildings (office and apartment).....	19
Button manufacturing.....	19
134 Can manufactories.....	18
Canning and preserving.....	248
Car manufacturing and repairs.....	1,009
Carpet and rug manufacturers and dealers.....	1
Carriage and wagon manufacturing and parts.....	357
Castings.....	841
Cattle feed manufacturing.....	14
Cement manufacturing.....	203
Cemetery association.....	5
Chain manufacturing.....	292
Chemical manufacturers and dealers.....	180
Churches.....	1
Cigar and tobacco manufacturers and dealers.....	33
Cistern and well drillers.....	4
Clay manufacturing and potteries.....	111
Cleaners and dyers.....	20
Clothing manufacturing (men's and women's).....	227
Coal dealers.....	195
Coal mining.....	2,062
135 Coffee, tea and spices.....	8
Coffin manufacturing and undertakers' supplies.....	50
Commercial light, heat and power.....	394
Commission merchants.....	23
Confectioners.....	79
Contractors, railroads.....	132
Contractors, general.....	1,217
Contractors, asbestos.....	7
Contractors, bridge and structural iron.....	253
Contractors, electrical.....	44
Contractors, carpenters.....	26
Contractors, elevators.....	44
Contractors, brick.....	1
Contractors, lathers.....	1
Contractors, metal workers.....	1
Contractors, painters, decorators and paperhangers.....	51
Contractors, plumbers and steamfitters.....	157
Contractors, plasterers.....	9
Contractors, stone masons.....	32
136 Contractors, tunnel, subway, sewer.....	27
Contractors, rivers and harbors.....	26
Contractors, excavating.....	7
Contractors, cement.....	40
Contractors, road and streets.....	104
Corporage.....	38

Classified as to industry.	Total number of accidents.
Cotton mills, textile manufacturing.....	69
Creameries .....	9
Creosoting .....	35
Corn products .....	119
Cutlery .....	10
Dentists .....	2
Dairy products .....	108
Distillery .....	33
Dressmakers .....	1
Druggists .....	34
Dry goods and general merchandise.....	198
Dry kiln accessories manufacturing.....	7
137 Domestic employes, cooks, maids, housemen, private chauffeur .....	2
Electrical and gas fixtures, manufacturers and dealers...	391
Electrical railways .....	143
Elevator manufacturing .....	13
Enamelware manufacturing .....	103
Engravers .....	8
Envelope manufacturing .....	13
Excelsior manufacturing .....	5
Explosive manufacturing .....	390
Express companies .....	165
Fish markets .....	12
Fence manufacturing .....	30
Film manufacturing .....	1
Fire proof articles.....	30
Fireless cookers .....	1
Fertilizer manufacturing .....	34
Florists .....	25
Flour and grist mills.....	150
Food products manufacturing.....	6
138 Forging .....	362
Foundry .....	997
Forestry, landscape architecture .....	6
Furnace manufacturing and repairs .....	16
Furniture manufacturing and repairs .....	1,050
Garages .....	139
Garbage disposals .....	7
Gas manufacturing .....	457
General cleaners (houses and stores) .....	1
Glass manufacturing .....	949
Glove manufacturing .....	25
Glue manufacturing .....	24
Grocers, wholesale and retail .....	223
Grain elevator and dealers.....	136
Handle manufacturing .....	52
Hardware .....	267

Classified as to industry.	Total number of accidents.
Hardwood floors	15
139 Harness and saddlery	42
Hauling	41
Hides and leather (tannery)	47
Homes—aged, orphans, soldiers, etc.	2
Hospitals	30
Hotel	103
House moving and wrecking	6
Ice cream manufacturing	18
Ice manufacturing and cold storage	197
Insulation	42
Insurance	5
Iron and steel	3,446
Jewelers, manufacturers and dealers	2
Junk dealers	152
Knitting mills	50
Laundries	145
Lightning rod, manufacturing and erecting	2
Liquor dealers	22
Lime manufacturing	43
Live stock commission merchants	14
140 Livery	18
Locomotive headlights	72
Lodges and clubs	19
Lumber manufacturing and dealers in building material	458
Machinery and machine shops	2,831
Marble, tile and granite monuments	13
Match manufacturing	7
Mattresses	14
Meat packers	397
Metal refining	208
Millinery	2
Mirror manufacturing	8
Musical instruments	153
Municipal corporations	18
Newspapers	46
Novelty manufacturing	16
Overall manufacturing	3
Oil well drillers	7
Oil pipes and supplies	22
41 Oil refining	591
Optical	2
Paint and varnish	13
Paper board manufacturing	135
Paper manufacturing	260
Pattern works (wood and metal)	4
Pharmaceutical and biological manufacturing	76
Photographers and supplies	4

Classified as to industry.		Total number of accidents.
Planing mills	142	142
Plating	27	27
Plumbers' supplies	6	6
Polish manufacturing	2	2
Poultry dealers	46	46
Printing and publishing	95	95
Pump and tank manufacturing	541	541
Quilt manufacturing	5	5
Regalia and uniform manufacturing	20	20
Railway signals	5	5
Real estate	16	16
142 Refrigerators	14	14
Rendering	1	1
Restaurants	62	62
Roofing	82	82
Rope and twine	86	86
Rubber manufacturing and vulcanizing	198	198
Safe manufacturing	18	18
Sand and gravel	45	45
Saw mills	172	172
Saw manufacturing	85	85
Scale manufacturing	11	11
School supplies	12	12
Schools and universities	39	39
Screen manufacturing	2	2
Sewing machines, manufacturers and dealers	23	23
Ship building	1	1
Sheet metal works and tinnerns	69	69
143 Silo construction	10	10
Soap and washing powder manufacturing	47	47
Specialty manufacturing, hardware, woodenware	64	64
Steam railroads	3,734	3,734
Steel and wire	250	250
Stone (quarries and cutting)	263	263
Stove manufacturing	157	157
Sugar manufacturing	16	16
Surgical and hospital supplies	37	37
Stencil, seals, etc.	21	21
Syrup manufacturing	2	2
Telephone and telegraph	269	269
Threshermen	94	94
Theaters	10	10
Toilet articles and barbers' supplies	1	1
Tool manufacturing	561	561
Toy manufacturing	52	52
144 Transfer, storage and warehouse	221	221
Trunk manufacturing	14	14
Typewriting machines and stenotypes	16	16

Classified as to industry.	Total number of accidents.
Undertakers .....	7
Veneer manufacturing .....	126
Watch manufacturing .....	3
Waterway transportation .....	2
Yarn manufacturing .....	1
Miscellaneous or unclassified .....	192

Complainant then introduced in evidence the statistical report of the Industrial Board of Indiana of accidents occurring to employees classified by employments for the year ending September 30, 1917, as appearing in the Indiana Year Book of 1917, as follows:

145                      Accidents.

*Statistical Report of the Industrial Board.*

Classified by Occupation and Employment.

Classified as to industry.	Total number of accidents.
Abattoir .....	105
Aeroplanes .....	2
Agricultural implements .....	20
Artificial limb company .....	25
Auto mfr., includes body top repairs and parts .....	3,206
Awning and tent manufacturers .....	17
Agriculture .....	67
Athletic goods manufacturers and dealers .....	2
Amusements .....	7
Banks and trust companies .....	20
Bag manufacturers .....	15
Bakeries .....	150
Baking powder manufacturers .....	5
Basket manufacturers .....	52
Barber shops .....	7
Bed spring manufacturers .....	30
Bicycles, motorcycles and parts .....	57
146      Bill posting .....	5
Blacksmith .....	36
Boiler manufacturers .....	190
Boots and Shoes, manufacturers and dealers .....	48
Bottlers .....	84
Box manufacturers (wooden and paper) .....	295
Brass foundries .....	104
Breweries .....	279
Books and stationery .....	4
Brick, tile manufacturers and sewer pipe .....	428
Brush and broom manufacturers .....	40

Classified as to industry.		Total number of accidents.
Bowling and billiards.....	8	
Burial vaults.....	2	
Butchers and meat markets.....	108	
Buildings (office and apartment).....	30	
Boats, barges, manufacturing and repairs.....	13	
Braid manufacturers.....	7	
Button manufacturers.....	13	
Can manufacturers.....	371	
147 Canning and preserving.....	1,489	
Car manufacturing and repairs.....	16	
Cattle feed manufacturers.....	516	
Carpets, rugs, manufacturers and dealers.....	516	
Carriage and wagon manufacturers and dealers.....	569	
Castings.....	421	
Cement manufacturers.....	282	
Chain manufacturers.....	242	
Chemicals, manufacturers and dealers.....	1	
China manufacturers and dealers.....	22	
Cigars and tobacco, manufacturers and dealers.....	12	
Cistern and well drillers.....	30	
Cleaners and dyers.....	107	
Clothing manufacturers (men's and women's).....	313	
Coal dealers.....	2,170	
Coal mining.....	9	
Coffee, tea and spices.....	45	
Coffin manufacturers and undertakers' supplies.....	364	
148 Commercial heat, light and power.....	35	
Commission merchants.....	71	
Confectioners.....	185	
Clay manufacturers and potteries.....	4	
Churches.....	7	
Cemetery associations.....	72	
Contractors, railroad.....	1,892	
Contractors, general.....	4	
Contractors, asbestos.....	515	
Contractors, bridge and structural iron.....	180	
Contractors, carpenter.....	113	
Contractors, cement.....	46	
Contractors, electrical.....	4	
Contractors, elevators.....	24	
Contractors, brick.....	..	
Contractors, lathers.....	..	
Contractors, marble workers.....	..	
Contractors, metal workers.....	36	
Contractors, painters, decorators and paperhangers.....	55	
149 Contractors, plumbers and steamfitters.....	179	
Contractors, plasterers.....	23	
Contractors, stone masons.....	15	

Classified as to Industry.	Total number of accidents.
Contractors, tile workers.....	1
Contractors, roofing, slate, etc.....	17
Contractors, tunnel, subway and sewer.....	124
Contractors, river and harbor.....	158
Contractors, road and street.....	346
Contractors, excavating.....	19
Cooperage.....	68
Cotton mills—textile manufacturing.....	109
Creameries.....	32
Creosoting.....	47
Corn products.....	122
Distillery.....	105
Dairy products.....	77
Dressmakers.....	...
Druggists.....	45
Dry goods and general merchandise.....	242
150 Dry kiln, accessories, etc.....	7
Electrical and gas fixtures.....	371
Electric railways.....	179
Elevator manufacturers.....	19
Engravers.....	6
Express companies.....	195
Enamelware manufacturers.....	75
Excelsior.....	16
Explosive manufacturers.....	42
Envelope manufacturers.....	7
Food product manufacturers.....	14
Fence manufacturers.....	66
Film manufacturers.....	4
Fertilizer manufacturers.....	41
Florists.....	28
Flour and grist mills.....	118
Forging.....	699
Foundry.....	1,987
Forestry, landscape, architecture and nurseries.....	11
Furnace manufacturers.....	30
151 Furniture manufacturers and dealers.....	1,421
General cleaners (house and stores).....	6
Fire-proof articles.....	3
Garages.....	194
Garbage disposal.....	11
Gas manufacturers.....	448
Glass manufacturers.....	972
Glove manufacturers.....	42
Glue manufacturers.....	22
Grocers, wholesale and retail.....	326
Grain elevators and dealers.....	145
Homes—aged, orphans, soldiers, etc.....	3



Classified as to industry.	Total number of accidents.
Hardwood floors .....	11
Handle manufacturers .....	86
Hardware .....	148
Harness and saddlery .....	38
Hat and cap manufacturers and dealers .....	4
Hides and leather (tannery) .....	60
Hospital .....	16
152    Hotels .....	139
House moving and wrecking .....	39
Hauling .....	99
Ice cream manufacturers .....	48
Ice manufacturing and cold storage .....	343
Insurance .....	6
Iron and steel .....	3,577
Insulation manufacturers .....	72
Jewelers, manufacturers and dealers .....	7
Junk dealers .....	192
Knitting mills .....	58
Laundries .....	188
Lawyers .....	2
Liquor dealers .....	62
Live stock commission merchants .....	23
Livery .....	52
Locomotive headlights .....	47
Lumber manufacturers and dealers in building material ..	541
Lime manufacturers .....	76
153    Lodges and clubs .....	17
Machinery and machine shops .....	2,748
Metal refining .....	152
Marble, tile and granite monuments .....	25
Match manufacturers .....	9
Mattresses .....	10
Meat packers .....	602
Millinery .....	16
Mineral water .....	2
Mirror manufacturers .....	20
Musical instruments .....	142
Municipal corporations .....	28
Newspapers .....	46
Novelty manufacturers .....	51
Oil refining .....	603
Overall manufacturers .....	25
Optical .....	7
Quilt manufacturers .....	1
Pharmaceutical and biological manufacturers .....	70
Paper board manufacturers .....	102
154    Paint and varnish manufacturers .....	41
Paper manufacturers .....	359

Classified as to industry.	Total number of accidents.
Physician .....	4
Photographers .....	9
Pattern works, wood and metal .....	8
Planing mills .....	165
Plating .....	37
Plumbers' supplies .....	28
Polish manufacturers .....	1
Poultry dealers .....	55
Printing and publishing .....	130
Pump and tank manufacturers .....	481
Restaurants .....	97
Real estate, rental and loans .....	36
Roofing .....	90
Rubber manufacturing and vulcanizing .....	148
Rope and twine manufacturers .....	67
School supplies .....	14
Schools and universities .....	52
Saw mills .....	172
Saw manufacturers .....	176
155 Scale manufacturers .....	16
Screen manufacturers .....	1
Seed dealers .....	2
Sheet metal works, tanners .....	191
Soap and washing powder manufacturers .....	38
Specialty manufacturers—hardware and woodenware .....	226
Steam railroads .....	3,812
Stone (quarries and cutting) .....	692
Steel and wire manufacturers .....	475
Stove manufacturers .....	215
Sand and gravel .....	77
Sewing machine manufacturers and repairs .....	31
Silo construction .....	15
Sugar manufacturers .....	8
Stencils, seals, etc. ....	29
Syrup .....	..
Surgical and hospital supplies .....	40
Safe manufacturers .....	3
Thread manufacturers .....	..
156 Telephone and telegraph .....	405
Theaters .....	18
Railway signals .....	8
Tool manufacturers .....	539
Trunk manufacturers .....	27
Typewriting machines and stenotypes .....	62
Transfer and storage warehouses .....	237
Toy manufacturing .....	36
Toilet articles and barbers' supplies .....	..
Umbrella manufacturers .....	..

Classified as to industry.	Total number of accidents.
Undertakers .....	18
Upholstering .....	..
Threshermen .....	25
Veneer manufacturers .....	237
Warehouse .....	4
Waterway transportation .....	4
Water companies .....	32
Yarn manufacturers .....	1
Miscellaneous or unclassified .....	105

NOTE.—Above statistics are taken from the official reports of the Industrial Board of Indiana, showing Dismemberments and aggregate number of employees injured in the several industries in Indiana for the periods referred to.

157 P. H. PENNA, on Direct Examination:

Has been Commissioner of Coal Operators' Association of Indiana for 21 years; acting for operators during that time has made contracts, interpreted and enforced them in connection with the Mine Workers' Union; that since 1906 biennially up to 1916 and since then more frequently the coal miners and coal operators have met to agree on a scale of wages. Witness was present when the last three or four scales were agreed upon. Wages are fixed on the tonnage basis in certain cases and by the hour or day in other cases; that in some mines there are no machines and the work is then called pick mining. When there are machines used then the employees are loaders and machine men. Other men in the coal mining business are engaged in transportation of coal in mines; they are called drivers, motormen and track men. They are spoken of as day-men. That under the present scale of wages the ordinary coal miner under ordinary conditions can earn from \$7.50 to \$8.00 per day for a working day of supposedly eight hours, but in fact less; that under favorable conditions under the present scale of wages there is a possibility of his earning much more, and many do earn much more than the reports filed for income taxes will show several thousand coal miners in Indiana that earned over \$2,500.00 for the year. That

158 the last scale has been effective from November 1, 1917; that the amounts paid under this agreement which was not made at a regular biennial period are more than under the last agreement; that the last preceding agreement became effective April 16, 1917, and was not made at a regular biennial meeting; that the last biennial scale fixed was in March, 1916; that the two increases in the scale fixed for the miners following the last biennial meeting were requested by the miners on the claims that conditions had so changed that wages should be increased, and the coal operators met these increased wages.

Witness was a member of the United Mine Workers' Union at one time; that so far as he knows, all men engaged in the coal mining industry in Indiana are members of the United Mine Workers of America; that their wages are fixed by collective bargaining between the Union on the one side and the operators on the other, and that this condition has existed with very few exceptions since 1886. That witness knows of no companies engaged in the business of mining coal in Indiana which employ less than five persons; that when the scale of wages was fixed in 1916 it was by its terms to continue from April 1, 1916, to March 31, 1918.

159 On cross-examination:

Witness is the secretary, treasurer and commissioner of the Operators' Association. That the miners were not 100 per cent organized in 1886; that since January, 1900, the Indiana Coal Operators' Association has been in existence. Prior to that time they used to meet and elect temporary officers for immediate emergencies, but not any association. Witness was president of the national organization of the Mine Workers in 1895 or '96. The wage agreement effective from April 1st, 1916, to March 31st, 1918, was made prior to the war. The Washington Agreement was effective probably in October, 1917; that representatives of the miners and operators had three meetings with Doctor Garfield, the Fuel Administrator; that about that time the price of coal was increased by the Government; that the basis of the miners' demands for increased wages was the increased cost of living.

That certain outside men employed by the coal company get approximately four dollars and sixty-five cents a day; that day men are those who are engaged in transportation, taking the coal from the miner after he loads it in a car and taking it out to the shaft for hoisting; this includes the mule drivers, motormen, track layers and repair men and timber men; that flat trimmers work outside; they get about four dollars and eighty-five cents a day; sometimes four dollars and thirty-five cents; that there is a different scale for pick work and machine work, owing to the tonnage produced. Machine runners are paid by the ton; so are entry drivers. Practically all coal mining is piece work, and when the witness testified a coal miner could earn seven dollars and a half a day, that is dependent upon whether the mine runs or not; that since the signing of the armistice about one-third of the mines have been in operation; that is, that about 33 per cent of the potentiality has been working, until recently, and now is close to 50 per cent. Several mines have suspended operation altogether and closed down; that at the present time in the bituminous field the coal mines are operating about three days a week. That the present wage agreement is contingent upon the signing of the peace and does not extend beyond the 1st of April, 1920, and that upon the signing of peace witness expects a new wage scale will be attempted. The Lower Vein Coal Company is a member of the Coal Operators' Association.

161 On redirect examination witness testified:

That the wages of employees of coal mines, except miners, are fixed and do not vary; such wages range from four dollars and sixty-five cents to five dollars and fifty cents a day for men; that as to coal miners who work on the contract basis a conservative estimate of their ability to earn would be seven dollars and a half to eight dollars a day; that the effort is made to have one helper or day man for each two coal miners; sometimes the coal miners and the helpers are about even in a mine, but this is an exceptional instance. Witness is unwilling to say that on a general average there are two coal miners to one day man, but that is the ideal, but the percentage of day men is greater as a general proposition than one to two coal miners.

On re-cross-examination witness testified:

Trappers when they are men get five dollars a day; when they are boys they get two dollars and sixty-five cents a day. Until the enactment of the recent child labor law, trappers were usually boys below the age of sixteen and their work consisted in opening doors which are fixed for ventilating purposes. These doors must be opened and closed when trips are made through them to transport the coal.

162 That in Indiana prior to the fixing of the new wage scale, operators were not giving bonuses to their men. How this was outside of Indiana, witness does not know.

#### *Stipulation.*

District Number Eleven, United Mine Workers of America, which are the operatives of mines in the Indiana bituminous field employed two attorneys to represent the legal affairs of the District Organization of District Number Eleven, United Mine Workers of America, to give counsel and advice to different members of the organization desiring it, there being no compulsion upon any member of the organization to employ the Legal Department or to use the services of the Legal Department, for a certain stipulated compensation to be paid the attorneys by the organization, such employment to begin upon the 15th day of September, 1918, to continue for at least one year from that date, and assessments were made upon each member of ten cents per month, and that it was a part of the duties of the attorneys so employed to prosecute for any miner or his dependents, if they desired to avail themselves of the services of said attorneys, personal injury suits to recover for personal injuries or death; that when such suits were so prosecuted the entire amount recovered

163 would go without abatement to the injured miner or his dependents, subject of course to the contribution of ten cents per month made by each miner to the Legal Department for its services; that there are two coal fields in Indiana known as the Block Field and the Bituminous Field; that the Block Coal Field has not

over ten or twelve mines and about one thousand employees; that District Number Eleven of the United Mine Workers' Union comprises all the bituminous coal fields of Indiana and all the coal mining in Indiana except block coal mining.

HOWE S. LANDERS, re-called, testified:

That during the year ending October 30th, 1918, there were 46,302 men employed in and around machine shops and 30,678 employed in automobile manufacturing and repairing, including bodies and tops.

That with reference to the statistics which this witness has given as to the number of employees in certain specified occupations in Indiana and the number of injuries to such employees, that outside of the Transfer, Storage and Warehouse business, the other employments testified about were in the main conducted by employers having more than five men in their employment, and that the inclusion in the accidents to employees in establishments where less than five men were employed, whereas in the number of men actually employed the reports do not include establishments where less than five men are employed, will not substantially affect the percentage of injuries given by the witness in his statistics.

On cross-examination witness testified:

Employers engaged in the Iron and Steel Industry, those operating machine shops and those in the auto industry substantially all operate under the Compensation Law. That all accidents should be reported to the Industrial Board; that from witness' knowledge only about 10 per cent of the employees of mine operators were under the Compensation Law of Indiana; that employers of 90 per cent of the men engaged in the coal mining business rejected the Compensation Law; that coal operators who had rejected the provisions of the Compensation Law contended that they were not required to report their accidents in accordance with the provisions of Section 67 of the Compensation Act and in the main did not report those injuries; that it is witness' impression that the number of injuries concerning which he testified as to the mining industry were largely from the 10 per cent of the miners who were under the Compensation Act; that those operators who rejected the law persisted in their refusal to report injuries to their employees until the Industrial Board had certified the question to the Appellate Court and had obtained a ruling that all employers, whether under the Compensation Law or not, should report such injuries.

## On redirect examination:

That in answering questions on cross examination witness' impression was confined solely to the number of employers who were reporting accidents. Those employers who did not report might not have had accidents; does not know whether they did or not. That as to all employers in Indiana, witness has had complaint from injured men that accidents to them have not been reported. It might happen that the company did not know the man was injured or neglected to report it or forgot to report it; that witness' impression is that there were a number of coal operators that did not report accidents, but that he could not testify to any figures; that the railroad companies were the ones who utterly failed and refused to report accidents; that it is witness' impression that there were more coal operators who did not report than employers in other industries; that the decision by the Appellate Court referred to was rendered January 7th, 1918.

P. H. PENNA, recalled, testified:

Witness is familiar with the practice of coal mining companies generally in Indiana with respect to reporting accidents to the Industrial Board. In so far as witness knows such reports were in fact made; that it has been declared by mine inspectors that they did not have jurisdiction over a coal mine that employed ten or less men; that it may be in the hurly burly of winning the war with so many little mines being operated to get out a few tons of coal that there were some of those people who were not regular coal operators who may have been neglectful of making reports; that witness does not believe that there is a single substantial coal operator in Indiana who has failed to report.

## Cross-examination:

Witness is speaking of reports to the Inspector of Mines, but that the Industrial Board has now taken over this department; that coal operators make reports of their injuries to the Mining Department.

This is what witness referred to especially. Witness is not absolutely familiar with what they have done with reference to reports, except that the operators have always reported their accidents and injuries to the Mining Department, but that operators having ten or less employees did not always report; that the usual custom is not to report except in those cases where the operation is under the supervision of the Mining Department. Witness has no personal supervision of the reports.

HENRY MOORE.

## Direct examination:

Practicing lawyer; represents various coal mining companies in Indiana; does not know of any contention ever being seriously enter-

tained by any substantial coal operator (that coal operators were not required to report accidents; so far as the companies represented by witness are concerned it has always been the custom to report every accident to the Industrial Board. Will not say that all were reported to the Industrial Board, but they were reported either to the Inspection Department or to the Industrial Board. He always considered that the law was complied with to whomsoever the report was addressed; that the Mining Inspection Department was taken over by the Industrial Board when it was created in 1915.

168 Cross-examination:

Witness represents the J. K. Dering Coal Company and the Vandalia Coal Company especially, and has represented others; that reports of injuries are sent from the local office and at the same time are reported to the main office. Witness has seen reports from time to time. In death cases a telegram is always sent and in minor injuries a letter.

HOWE S. LANDERS, recalled:

That in arriving at the number of accidents and injuries in the various industries witness takes his figures from accident reports to the Industrial Board; that there were two reports; there was an old report to the Mining Department which was intended to enable the Mine Inspector to prevent accidents and safe-guard employees; the accident report to the Industrial Board was on a different form, intended to bring to the Board information to pass upon the question of liability for compensation, as well as to prevent accidents. The Industrial Board left the two reports in full force and effect; required a report to the Mining Department on the old form and the  
169 report to the Industrial Board on the accident report form.

The figures made by witness were based on the accident report to the Industrial Board. This refers to the coal mining industry, because no reports were required to the Mining Department from other industries. That at first the mine operators did not report their accidents unless they were operating under the Compensation Law. Later that situation was changed and the change occurred at the time of the decision of the Appellate Court above referred to. After that decision the coal operators generally reported.

That the figures as to the number of injuries in mines for the period from September, 1917, to October, 1918, were taken from reports made directly to the Industrial Board and not to the Mining Department.

Plaintiff then introduced in evidence Table of Accidents in the Mining Industry showing fatal, permanent, serious and slight injuries for the period ending September 30th, 1918, as follows:



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## TABLE OF ACCIDENTS No. 1.

Arranged according to occupation of the injured party, the fatal, permanent, serious and slight accidents being shown separately.

Occupation of injured party.	Fatal.	Perma- nent.	Serious.	Slight.	Total.
Miners .....	42	1	103	315	461
Machine runners .....	2	..	24	52	78
Machine helpers .....	2	..	14	36	52
Motormen .....	3	..	13	37	53
Drivers .....	12	..	80	261	353
Roadmen .....	1	..	5	26	32
Jerry men .....	15	..	20	77	112
Trappers .....	2	..	8	14	24
Cagers .....	..	..	15	25	40
Pumpers .....	1	..	5	4	10
Electricians .....	2	..	1	14	17
Trip riders .....	7	..	36	91	134
Car couplers .....	..	..	9	19	28
Bratticemen .....	..	..	3	2	5
Boss drivers .....	1	..	1	6	8

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Mine bosses .....	3	..	2	4	9
Room bosses .....	..	..	1	3	4
Fire bosses .....	..	..	1	3	4
Superintendents .....	..	..	1	1	2
Shot firers .....	9	..	14	11	34
Engineers and firemen .....	..	..	2	3	5
Flat trimmers .....	1	..	3	16	20
Timbermen .....	4	..	10	19	33
Weighmen .....	..	..	..	2	2
Top hands .....	6	..	9	30	45
Top bosses .....	1	..	1	2	4
Blacksmiths .....	..	..	1	8	9
Miscellaneous .....	..	..	9	4	13
Totals .....	114	1	391	1,085	1,591

That the figures in the above table show the reports of accidents to the Mining Department and the Industrial Board; that these reports are from mines employing ten or more people.

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*Defendants' Evidence.*

Defendants introduced in evidence the following table from Industrial Accident Statistics of the United States Department of Labor, published in March, 1915:

TABLE 1.

*Estimate of Fatal Industrial Accidents in the United States in 1913  
by Industry Groups.*

(The fatality rates used in this estimate are approximations. They are slightly at variance with the exact rates for certain industries, particularly mining, for the year 1913. For metal mines in 1913 the fatality rate, according to the Bureau of Mines, was 3.54 per 1,000; for coal mines, 3.73; for quarries, 1.72. In the estimate it is assumed that for these industries in particular the approximate rates indicate more accurately the average risk for a period of years, it being considered that even the official rates fall short of absolute accuracy and completeness in the absence of a Federal law making the reporting of mine accidents compulsory upon all operators. The estimate was arrived at before Technical Paper 94 of the Bureau of Mines was published.)

Industry group.	Number of employees.*	Fatal industrial accidents.*	Rate per 1,000.
<b>Males.</b>			
173 Metal mining.....	170,000	680	4.00
Coal mining.....	750,000	2,625	3.50
Fisheries.....	150,000	450	3.00
Navigation.....	150,000	450	3.00
Railroad employees.....	1,750,000	4,200	2.40
Electricians (light and power).....	68,000	153	2.25
Navy and marine corps....	62,000	115	1.85
Quarrying.....	150,000	255	1.70
Lumber industry.....	531,000	797	1.50
Soldiers, United States Army	73,000	109	1.49
Building and construction.	1,500,000	1,875	1.25
Draymen, teamsters, etc....	686,000	686	1.00
Street railway employees...	320,000	320	1.00
Watchmen, policemen, firemen.....	200,000	150	.75
Telephone and telegraph (including linemen).....	245,000	123	.50
Agricultural pursuits, including forestry and animal husbandry...	12,000,000	4,200	.35
174 Manufacturing (general).....	7,277,000	1,819	.25
All other occupied males...	4,678,000	3,508	.75
All occupied males.....	30,760,000	22,515	.73
All occupied females.....	7,200,000	540	.075

\* Partly estimated.

175 EARL YARLING, on direct examination, testified:

That he was a clerk of the Industrial Board of Indiana; that he had made a computation of figures from reports to the License Department of the Industrial Board as to the number of employees of the Iron and Steel Industry of Indiana, and also compiled the number of employees and accidents in Machinery and Machine Shops, Iron and Steel Industry, Automobile Manufacturing and Repairing, and furnished the following table of accidents, number of employees and percentage of those injured:

	Accidents.	Employees.	Per cent Injured.
Iron and Steel industry.....	3,446	60,547	5.6 plus
Machinery and Machine Shops	2,831	47,706	5.8 "
Automobile Mfg. & Repairing.	2,996	29,366	7.4 "
Coal mining.....	2,162	26,294	8.2 "

On cross-examination:

That in the Steel and Iron and Allied Industries such as Metal Finishers, Saw Manufacturers, Tool Manufacturers, Foundries,

Castings and Forgings there were a total of 60,547 employees; that witness does not know for sure whether there are

27,720 employees in the Iron and Steel Industry proper; that as to concerns that were engaged in the business of metal finishing, if it was steel and iron metal finishings, the employees were included among those engaged in the Iron and Steel business, and this is true of Saw Manufacturing, Stove Manufacturing and foundries; that on the list prepared by witness the total number of employees in the Iron and Steel and Allied Industries is 60,547; that the number of accidents in the Iron and Steel Industry proper as shown by the reports to the Industrial Board is 3,446; in the Forging business 362; Stove Manufacturing 157, Agricultural Implements 243, Foundries 997; Saw Manufacturing 85; Steel and Wire 250; this making the total injuries in the Iron and Steel Allied Industries 5,540 and the percentage of injuries to the number of men in the business 9.1 per cent; that a memorandum prepared by witness showing these injuries in the Iron and Steel and Allied businesses, the number of employees in such businesses and the percentage of injuries reads as follows:

177 COMPLAINANT'S EXHIBIT 21.

*Memorandum of Witness Yarling.*

Iron & Steel .....	3,446	
Forging .....	362	
Stove Manufacturing .....	157	
Agri. implements .....	243	
Foundry .....	997	
Saw Mfg. ....	85	
Steel and wire .....	250	
		5,540 60,547
	5,540.00 (60,547	
	5,449.23 09.1 X	
	90.770	
	60.547	
	30.223	

178 That witness included on the one side in the number of employees all persons engaged in the Steel and Iron business and in the various allied businesses, and on the other hand in order to figure the percentages correctly he ought to have figured all the injuries without duplication to people in those businesses and that in figuring his total injuries in the Steel and Wire business of 3,466 he included only those injuries reported under the head of "Iron and Steel" and did not include the number of accidents reported to the Industrial Board in Allied Industries; that witness figured the percentages of injuries to employees in the following businesses: Furniture Manufacturing and Repairing, Gas Manufacturing, Glass Manufacturing, Stone Quarries, Oil Refining, Veneer Manufacturing, General Contracting, Explosives and Cement Manufacturing.

That witness has heard the evidence of Mr. Landers and has no suggestions to make with reference to any of the percentages of injuries to employees in the above mentioned industries.

Defendants introduced in evidence Table of Accidents No. 3 from the report of the Industrial Board of Indiana for the year ending September 30th, 1918, as follows:

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## TABLE OF ACCIDENTS No. 3.

Table Showing Number of Tons of Coal Produced, Number of Persons employed, the number of fatalities, the number of tons produced per fatality, and the number of killed per thousand employed, for each year from 1898 to 1918, inclusive.

Year.	Tons.	Produced.	Employed.	Fatalities.	Tons per fatality.	Killed per 1,000 employed.
1898	....	5,146,920	No report.	22	233,950	....
1899	....	5,864,975	7,366	15	390,997	2.04
1900	....	6,283,063	8,858	18	349,059	2.03
1901	....	7,019,203	10,296	24	292,466	2.33
1902	....	8,763,197	13,139	24	365,133	1.83
1903	....	9,992,563	15,128	15	181,683	.99
1904	....	9,872,404	17,838	34	290,304	1.91
1905	....	10,995,972	17,856	47	233,956	2.63
1906	....	11,422,027	19,562	31	368,450	1.60
1907	....	13,250,715	19,009	53	250,013	2.79
1908	....	11,997,304	19,092	45	266,606	2.36
1909	....	13,692,089	18,908	50	273,841	2.64
1910	....	18,125,244	21,171	51	355,397	2.41
180						
*1911	....	9,571,289	20,778	33	290,039	1.60
1912	....	14,204,578	21,230	37	383,908	1.74
1913	....	17,246,565	21,683	59	292,315	2.72
1914	....	16,635,178	22,110	49	339,493	2.21
1915	....	15,696,921	20,702	54	284,202	2.60
1916	....	18,238,591	21,300	48	379,969	2.25
1917	....	24,013,021	23,940	66	363,834	2.75
1918	....	28,795,682	27,032	114	292,067	4.08

181 SAMUEL R. ARTMAN, on direct examination, testified:

Has been a member of the Industrial Board of Indiana since March 16, 1917. The following accidents have been reported to the State Board:

Year ending August 31, 1916,	36,166
" " " " 1917,	42,452
" " " " 1918,	37,114
From September 1, 1918, to December 31, 1918,	11,916

\*1911 report for nine (9) months only.

That in dealing with coal mining injuries there are three classes that stand out very prominently that are very severe,—burns about the face, injuries to the back and spine and injuries to the sacro-iliac region that burns about the face in the coal mining industry are the most severe of any industry in the state and that injuries to the back and sacro-iliac region are confined largely to the coal mining industry and are peculiar to it and very severe; that that disfigurements in the coal mining business are frequent.

That in the year 1918, of the total industrial accidents in Indiana, one out of every  $17\frac{1}{4}$  occurred in coal mines; that is, that a little less than 6 per cent of the total industrial accidents were in coal mines; that of the accidents happening in Indiana there is about 10 per cent for which there is any liability whatever on account of negligence.

On cross-examination:

That there are industries other than the coal business in which the proportion of dismemberments is larger; that there are more in the Iron and Steel Industry in Indiana; that this industry is second in the proportion of burns, and that the manufacturing of chemicals is third. That since witness has been a member of the Industrial Board there has been an explosion in the mines of Indiana; that witness recalls a man named Reynolds who was severely burned in a coal mine; was burned all over the head and face and was completely blind in both eyes; recollects other people burned, but does not recall their names. Cannot stand a cross examination on figures; has an impression that coal mining heads the list as to burns; that it is perfectly possible by examining the records of the Industrial Board to ascertain exactly the percentage of burns in each of the occupations.

Defendants introduced in evidence Exhibit E, which is from the report of the Industrial Board of Indiana for the year ending September 30, 1918, showing fatal injuries for that period, classified by industries:

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*Fatals.*

Classified as to industry.	Total number of accidents.
Agricultural implements .....	2
Agriculture .....	2
Auto manufacturing, includes top, body, parts, etc.....	2
Amusements .....	2
Bill posting .....	67
Brass foundries .....	1
Boilers .....	1
Bottlers .....	1
Brick, tile manufacturing and sewer pipe.....	2
Box manufacturing .....	2
Bakeries .....	3
	3

Classified as to industry.	Total number of accidents.
Buildings (offices and apartments) .....	2
Commission merchants .....	2
Car manufacturing and repairs .....	4
Chemical manufacturers and dealers .....	2
Coal dealers .....	2
Cement manufacturing .....	2
Coal mining .....	69
Canning and preserving .....	1

Classified as to industry.	Total number of fatalities.
184 Cement manufacturing .....	2
Contractors, railroads .....	2
Contractors, general .....	21
Contractors, bridge, structural iron .....	6
Contractors, painters, decorators and paperhangers .....	4
Contractors, carpenters .....	1
Coffin manufacturing and undertakers' supplies .....	1
Cookery .....	2
Cleaners and dyers .....	1
Coffee, tea and spices .....	1
Commercial light, heat and power .....	3
Cloth manufacturing .....	1
Carriage and wagon parts and repairs .....	1
Clay manufacturing and potteries .....	2
Cottages .....	2
Dry goods and general merchandise .....	3
Dry products .....	1
Electric railways .....	5
Foundry .....	3
185 Forging .....	1
Grain elevators .....	1
Glass manufacturing .....	4
Garbage disposals .....	1
Hardware .....	2
Hotels .....	2
Iron and steel .....	46
Insulation manufacturing .....	1
Ice manufacturing and cold storage .....	1
Lumber manufacturers and dealers .....	3
Laundries .....	1
Liquor dealers .....	1
Machinery and machine shops .....	8
Meat packers .....	1
Oil refining .....	1
Pump and tank manufacturing .....	3
Rubber manufacturing and vulcanizing .....	1
Restaurant .....	1

Classified as to industry.		Total number of fatalities.
Sand and gravel .....	5	
Saw mills .....	1	
186 Steam railroads .....	47	
Stone (cutting, quarries) .....	2	
Stove manufacturing .....	1	
Steel and wire manufacturing .....	1	
Soap and washing powder manufacturing .....	1	
Telephone and telegraph .....	2	
Transfer, storage and warehouses .....	2	
Miscellaneous or unclassified .....	1	
Escaping steam .....	3	
Acids .....	1	
Elevators .....	6	
Hoists, cranes, derricks .....	8	
Disease .....	2	
Caught between objects .....	27	
Poisoned by brass, cement, etc. ....	1	
Gases-asphyxiated .....	2	
Powder and dynamite explosions .....	3	
Boiler explosions .....	1	
187 Fall from poles .....	1	
Electricity .....	18	
Hot substances .....	4	
Fire .....	2	
Fall through openings .....	1	
Collapse of support .....	6	
Hit by fall of object .....	40	
Hit by vehicles, cars, engines .....	38	
Animal kicks, bites, etc. ....	3	
Fall from scaffold, benches, etc. ....	1	
Fall from wagons, cars, etc. ....	4	
Fall of coal, slate, shale, etc. ....	24	
Gas explosions, gas flames .....	17	
Fall into excavations .....	1	
Trucking and hauling .....	1	
Dropping and handling .....	1	
Fall down shafts .....	1	
Motor and hand cars .....	2	
Miscellaneous or unclassified .....	31	
188 Firearms .....	1	
All other falls .....	22	
Striking against sharp edges .....	1	
Collisions, trains, cars, etc. ....	74	
Bumping into stationary objects .....	3	
Dump cars and pit cars .....	2	
Coupling cars, braking, switching .....	3	



## Operating and Feeding:

Saws .....	1
Power shears .....	1
Lathes .....	2
Miscellaneous machines .....	2
Planers .....	1

## Oiling and Inspecting:

Miscellaneous machines .....	1
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## Breaking of Machine or Work:

Emery wheels, grindstones .....	1
Hoists, cranes, derricks .....	1

189 CAIRY LITTLEJOHN, on direct examination, testified:

Is Deputy Mining Inspector of Indiana; his duties are to supervise the inspection of coal mines, compare the reports, see as far as possible that the law governing mining industries of the state is complied with. That there are about 213 mines at present under the Department of Inspection. The average coal mine in Indiana consists of a shaft and a tippie built over it for the purpose of hoisting coal. Under the tippie is a railroad track. Directly over the shaft are hoisting gears and attached to the main portion of the tippie is the necessary equipment for the screening of coal and dumping it on cars. Underground workings consist of entries, break-throughs, over-cuts and rooms. Some of the mines have electric motors to propel the empty and full cars; others do not. Dynamoes are built in mines operated electrically for the generation of electricity. The motors run at a high rate of speed. That the roofs of these mines are sometimes not supported; that sometimes they are propped by timbers, pillars of coal and cross bars placed over the ends of two timbers. That electricity is got into the mines through wires. In many instances these wires are uninsulated; that in mines where they have motor haulage, trolley wires are used, which in most places are guarded.

That many of the Indiana mines emit and generate certain inflammable and noxious and dangerous gases. That black damp is called choke damp; it consists of one part carbon and two parts oxygen. It is non-explosive and occurs in badly ventilated mines. That there is a damp known as white damp and methane. Sometimes these gases collect in pockets and explode; that the results of these explosions are destruction of property and serious and fatal injuries to individuals. Sometimes an explosion causes more than one fatality. Occasionally explosions occur in mines which cause great catastrophes.

That there are quite a few accidents, some fatal, among the men who work around the tipples and on top of the mines; that there were six such fatal accidents on top of the mines during the year ending September 30th, 1918. That there has been one explosion

in a mine in Indiana since January 16, 1919. Two men were killed. Since that time there have been no explosions of a serious character reported to the witness.

Cross-examination:

That there are nine, twelve and fourteen foot entries in the mines of Indiana. That trolleys in mines operated electrically are placed a great many times just a little beyond the center of the road; that the law prescribes that there shall be a traveling way along the side of the entry kept free from obstruction. That a break-through is an intersection between two entries or rooms for the purpose of transmitting the air,—for the purpose of circulating pure air. The Indiana law prescribes 100 cubic feet of pure air for each miner and 300 cubic feet for each mule. That if fresh air is blown properly into a mine there will be no black damp. That there are mines known as gaseous mines which are well known both to the miners and the operators. White damp is the result of incomplete combustion. It leaks or seeps out from the coal in small quantities. Rapid firing of shots sometimes produces white damp; If the law governing the firing of shots is complied with and the law governing circulation of pure air, still you might possibly have some trouble with white damp originating from the burning of black powder and stirring up of dust or a "windy shot."

That from the shaft of a coal mine, generally, main entries go in two directions and cross entries are driven from the main entries, usually at right angles. Then the rooms are worked off from the cross entries and break-throughs are between the rooms and between entries. If the law is complied with there is a complete circulation of air at all times.

Defendants then introduced in evidence Table of Accidents No. 2, showing the fatal, permanent, serious and slight injuries to miners for the year ending September 30th, 1918, classified as to the cause of the injury, which is as follows:

## TABLE OF ACCIDENTS NO. 2.

Classified According to the Cause of the Injury, the Fatal, Permanent, Serious and Slight Accidents Being Shown Separately.

Cause of accident.	Fatal.	Perma- nent.	Serious.	Slight.	Total.
Fall of coal.....	3	1	30	138	172
Fall of slate and rock.....	49	..	88	162	299
Mine cars.....	15	..	135	406	556
Mining machines.....	..	..	37	85	122
Mine motors.....	3	..	13	39	55
Explosion of powder.....	8	..	9	1	18
Gas and gas explosion.....	14	..	20	26	60
Exploding shots.....	3	..	7	4	14
Mine cages.....	3	..	13	16	32
Falls into shaft.....	3	..	2	..	5
Other falls.....	2	..	..	24	26
Mine mules.....	..	..	26	52	78
Electricity.....	6	..	..	12	18
Fall of coal in shaft.....	..	..	1	..	1
Other falling objects.....	..	..	4	..	4
194 Stepping on nails.....	..	..	..	28	28
Handling heavy ob- jects.....	..	..	..	..	..
Hand tools, etc.....	..	..	..	61	61
Railroad cars.....	4	..	..	1	5
Miscellaneous.....	1	..	6	30	37
Totals.....	114	1	391	1,085	1,591

CLIFFORD HOFFMAN, on direct examination testified:

Employed by Indiana Coal Operators' Reciprocal Organization, which has for its purpose the inspection of mines, the investigation of accidents and the adjustment of personal injury claims. That the mine boss or superintendent of the mine sends a report to this organization of accidents that occur in and around a mine. These reports sometimes come in in a day or two; sometimes in a week or two. That at the present time approximately 115 or 120 mines are members of this organization. That approximately 2,500 accidents were reported to this association between the 1st day of June 1918 and the last day of June 1919.

Cross-examination:

That most of the mines in the association are large mines and that the Reciprocal Organization includes a very large percentage of the coal producing business of Indiana, say approximately 75 or 80 per cent of the tonnage. That approximately 2,500 reports of injuries

were made by members of the organization through said organization for the year ending June 1st, 1919. Many of these accidents were in cases where the men were only off a day and many reported that they did not lose any time.

SAMUEL R. ARTMAN, recalled.—

Cross-examination.

That in the reports made to the Inspection Department of the Industrial Board for the year ending September 30th, 1918 there were included 114 fatalities in the coal mining business in Indiana; whereas in the report made to the Industrial Board only 70 fatalities are shown; that the evidence heretofore introduced in this case shows that in the report made to the Industrial Board of Indiana for the year ending September 30, 1918 the total injuries to persons engaged in the coal mining business numbered 2,162; whereas in the reports to the Mine Inspection Department the total number of employees injured is given as 1,591; that the figure of 2,162 for total injuries reported directly to the Industrial Board approximately and substantially includes the total figures of 1,591 reported to the Mine Inspection Department.

Witness testified that there were 10 per cent of the coal operators that came under the Compensation Law prior to 1919. That the compensation cases which he passed upon were restricted wholly to those injuries occurring at the mines of operators who came under the law; that the questions passed upon by witness as a member of the Board do not include any question of negligence. As to the other 90 per cent of the coal operators he had no occasion to hear any evidence with respect to injuries or what caused them. That witness gave no figures as to the percentage of injuries in the coal mining business which were caused by negligence, but that the figure given applied to all industries.

(NOTE.—That only 10 per cent of the accidents in Indiana in all businesses were the result of actionable negligence.)

That the Vandalia Coal Company for the year September 30th, 1917 to October 1st, 1918 did not report a single injury to the Industrial Board; that the Lower Vein Coal Company reported 12 to the Industrial Board and 6 to the Mine Inspector; Zeller McClellan Company reported 9 to the Industrial Board and none to the Inspector of Mines; J. Woolley Coal Company did not report any to either; Shirkey Coal Company reported 31 to the Industrial Board and 2 to the Inspector of Mines; Ayrshire Coal Company reported 78 to the Industrial Board and 2 to the Inspector of Mines; Coal Muff Mining Company reported 6 to the Industrial Board and 1 to the Inspector of Mines; Grant Coal Company, 6 to the Industrial Board, none to the Inspector of Mines; Jackson Hill Coal and Coke Company reported 162 to the Industrial Board and only 18 to the Inspector of Mines.

The following part of the record shows a statement made by Judge Artman, a member of the Industrial Board of Indiana, the motion of the plaintiff to strike out the statement and the ruling of the court thereon:

"I think the actual fact is that neither one of these reports or both of them combined is or are reliable. In other words, I don't think if you take the accidents reported in both of them in the aggregate for the year 1918, for the period September 30th, 1917 to October 1st, 1918, we have over sixty-six and two-thirds per cent of the injuries that actually occurred in the coal mines of Indiana. For instance, here is the J. Woolley Coal Company that do not report any to anybody. I think if you held an inquisition on that company you would find out facts that would justify the reports of a great many."

Mr. Thompson: "The plaintiffs move to strike out the statement that has just been made on the ground that these reports speak for themselves; that this is not predicated upon any knowledge or information shown to be possessed by the witness, and it is simply a guess or supposition on the part of the witness."

199 The Court: "Now, you take Judge Artman's voluntary statement. He asked the privilege of making the statement and said if the court thought it was not competent to strike it out. That is what he said, wasn't it?"

Mr. Thompson: "Yes sir."

The Court: "It is nothing but a mere guess. It is not an opinion based upon facts and it is contrary to other testimony here. I will not strike it out; I will just disregard it. The Court of Appeals, if this should go up, might think this was important. If I strike it out they won't have the benefit of it. Of course, the presumption is that the law is observed. The presumption is that the accidents are reported. It will take something more than a guess or an opinion to make a dent in that presumption, let alone overcoming it."

CLIFFORD HOFFMAN, recalled:

J. Woolley Coal Company is one of the subscribers to the Indiana Coal Operators' Reciprocal Organization. It reported to that organization 46 accidents occurring to its employees from the 1st of October, 1917, to the 1st of October, 1918.

200

*Complainant's Rebuttal.*

HOWE S. LANDERS, recalled:

Witness' attention is called to his evidence that the number of employees in the Iron and Steel Industry proper for the year ending September 30th, 1918, was 27,720 and the number of injuries to such employees, 3,446; that the number of the employees in the Iron and Steel and Allied Industries aggregated 59,516 and the number of injuries 6,096. The witness then further testified that the entire

system of tabulating the experience of the Industrial Board was originated by him, that he selected the industries under the classification of Iron and Steel which are in his opinion responsible for the 3,446 accidents shown in the annual report of the Industrial Board and collected under the head of Iron and Steel; that included in the Iron and Steel and Allied Industries are the employees of Forging Plants, Foundries, Castings and Saw Manufacturers, making an aggregate of 59,516 employees. That to determine the number of accidents to all these employees it is necessary to include the number of accidents not only to the employees in the Iron and Steel Industries proper, but in the Allied Industries; that the figure of 59,516 employees of the Iron and Steel and Allied Industries includes all employees of such industries and is responsible for the 6,096 injuries. That Mr. Yarling in making out his statement of 3,446 accidents to 60,574 employees of the Iron and Steel Industry included the employees of the entire Allied Iron and Steel Industries, but did not include the corresponding accidents, and therefore his percentage of injuries is cut down from  $10\frac{1}{4}$  per cent to 5.

Cross-examination:

That in compiling the data about which the witness has testified he selected the industries that he knew would be included in the group which is called hazardous.

CAIRY LITTLEJOHN, recalled.

Cross-examination:

Witness' attention is called to the Year Book of Indiana for 1917 containing the report of the Department of Mines and Mining, showing 61 fatal accidents to persons employed in mines and 5 fatal accidents employed on the surface, showing an average number of 23,940 persons employed about mines, which shows an average of 2.75 killed per thousand employees; further showing that in 1917 there were 24,000,000 tons of coal produced in Indiana; that in 1918 there were 28,000,000 tons of coal produced, with fatalities of 114 and with 27,932 employees; in other words, that there was a larger percentage of fatalities in the coal mining business in 1918 than in 1917 or preceding years. Witness testifies that this was an unusual condition in Indiana and that the unusual fatalities in 1918 were due to three elements which contributed something to the increased number of accidents: first, the miners were working to the highest tension of their physical ability; every day that the mines could possibly be run, they were working; second, supplies and materials for mines were not as readily obtainable on account of war conditions; third, a great many young men having gone into the military service the requirements of the situation took to the mines quite a few inexperienced men and older men.

Witness' attention was called to two fatal accidents included in the total of 114 for the year ending September 30th, 1918, and upon

an examination of the records stated that one was stricken by heart failure and the other by apoplexy; that these two should be deducted from the total of 114 fatalities in the coal mining business for that year, leaving a net result of 112.

203 HENRY MOORE, recalled

Direct examination:

That the Vandalia Coal Company is not an operating company. Its mines are operated by the Vigo Coal Products Company. That in the coal mining business in Indiana during the period about which evidence has been given coal mining companies employed clerical employees and some top men at each mine. These men are engaged above the ground in hauling, carpenter work, blacksmithing, etc.; that the clerical employees consist of bookkeepers, paymasters and watchmen; that these employees are all included as employees of the mine in the reports to the Industrial Board.

Cross-examination:

Vandalia Coal Company does not operate any mine. This is done by the Vigo Coal Products Company. Vandalia Coal Company owns seven or eight mines which were being operated. The employees are paid by the Vigo Coal Products Company. These corporations are absolutely distinct and do not have the same stockholders nor the same officers.

CLIFFORD HOFFMAN, recalled:

Lower Vein Coal Company is a subscriber and a member of the Indiana Coal Operators' Reciprocal Organization. From the  
204 1st of October, 1917, to the 1st of October, 1918, it reported 135 accidents to that organization, which included many men whose injuries incapacitated them for only a day, or possibly not at all.

SYDNEY S. MILLER testified:

That he made an examination of the individual reports of accidents made to the Industrial Board of Indiana by certain employers for the year ending September 30th, 1918, and from such reports compiled certain of the more serious injuries.

The following list shows the name of the employer, the business in which engaged, the name of injured employee, the character of the injury and in certain instances the length of the disability or compensation granted, resulting from such injury.

(NOTE.—We have not copied into the record a complete list of the injured employees as it was introduced before the court, but have selected only the more serious ones.)

205 Inland Steel Company, Manufacturers of Steel.

Name of employee.	Character of injury, extent of disability, or compensation granted.
McPherson .....	Left foot and leg crushed; foot nearly severed.
Maley .....	Burn of right finger and hand.
Divyac .....	Crushing injury to pelvis, with abdominal injuries.
Podner .....	2nd degree burn of right fore-arm, elbow and wrist.
Jowers .....	Contusion and bruise of left wrist.
E. B. Padonel .....	Compound fracture of tibia of left leg.
Szabo .....	Sustained braise of left arm and nose.
Kurerovac .....	Contusion of left lumbar region.
Wanicky .....	Contusion of left pelvis and right dorsal region; possible internal injury.
Lursa .....	Contusion and bruise of lower part of back and gluteal muscles.
Patoinaum .....	Second degree burn over entire face and left ear and left hand.
Wirts .....	Entire surface of face burned.
Fulea .....	Severe sprain of left ankle; probable fracture of hip of lower fibia.
206 Reznyoy .....	Fracture of right fore-arm.
Hansen .....	Contusion and bruise to the back.
Shankes .....	Sprain and probable fracture of right fore-arm.
Saffra .....	Amputation of distal phalanx of middle finger of left hand.
Brown .....	Scalp cut about six inches long; leaving skull bare; neck and back injured; 28 days.
Henolrk .....	Fracture of left tibia; injuries to back.



Name of employee.	Character of injury, extent of disability, or compensation granted.
Christea .....	First and 2nd degree burns of right arm, lumbar region and left shoulder.
Hunes .....	Severe sprain of right ankle.
Paske .....	Crushing injury of right hand.
Grezech .....	3rd degree burn of entire face.
Shivers .....	Burned to death.
Christea .....	Laceration and destruction of tissues of right thumb.
Bourke .....	Fracture of left leg above knee.
Lakatosh .....	Second degree burn on right ear.
John .....	Second degree burn on right foot.
Vlasech .....	Laceration of forehead.
Pukewyez .....	Cut four inches long on right cheek; fracture of right humerous.
207 Hant .....	Severe contusion of left side of head; sprain of back.
Cowherd .....	Electrical burn over entire face and right in-ex finger.
Davis .....	Two small burns on cornea of right eye.
Lides .....	Fracture of tibia, and fibula, lower 1/3 right leg.
Golubisty .....	2nd degree burn on forehead; neck and left shoulder; both eyes and eyelids burned.
Wierngash .....	Multiple fractures of the bones of the fingers and metacarpal bones of right hand.
Kergizan .....	Hit by train; killed instantly.
Micich .....	1st and 2nd degree burns of entire left hand and wrist.
Polomerione .....	Contusion of back and fracture of fibula.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Slaski .....	Hot bar entered lower abdomen, running through abdomen and exit at back; fatal.
Sproniez .....	Contusion and bruise of lower part of chest; probable fracture of two or three ribs; 4-1/7 weeks.
Bradley .....	Loss of eye.
Speros .....	Contusion of right ankle and thigh; laceration of shin; three teeth knocked loose; 3-4/7 weeks.
208 Vinchich .....	2nd degree burn back of right hip; 4-6/7 weeks.
Walker .....	Severe infection in left hand; 2-4/7 weeks.
Potokanz .....	Second degree burn of face, neck, back, arms, wrists, legs, in hamstring region, and buttocks; 5-6/7 weeks.
Capotan .....	2nd degree burn around right ankle and instep; 3-3/7 weeks.
Pontoch .....	1st and 2nd degree burns on chest, back, buttocks, both eyes, both arms, and scrotum; 6 weeks.
Lund .....	First degree burn of right foot in two small places; 3-5/7 weeks.
Tylk .....	Distal phalanx of 1st, 2nd and 4th finger torn off on saw; 45 weeks.
Papaz .....	Laceration of skin over right eye and skull fractured; 2-1/7 weeks.
Noochita .....	Bad sprain of wrist and probable fracture; 2-3/7 weeks.
Sekularae .....	Second degree burn of calf of left leg; 3-2/7 weeks.
Szavity .....	1st and 2nd degree burns on right side of face and neck.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Bizineski .....	Deep laceration of whole of left hand; with probable amputation; 150 weeks.
Ciacoe .....	2nd degree burn on right ankle; 3-3/7 weeks.
209 Kryogwoski .....	Contusion and bruise of right ankle; 2-4/7 weeks.
Piazecki .....	Second degree burn on all toes of right foot; 13-5/7 weeks.
Hatiagan .....	Deep cut on right leg; 2-2/7 weeks.
Ungurean .....	Second degree burn below right knee; 2-5/7 weeks.
Gustatski .....	Severe sprain of back; 3-5/7 weeks.
Sorelas .....	Second degree burn on left foot; first degree burn on side of neck; 3-2/7 weeks.
Carlson .....	Contusion, with compound fracture of right hand and wrist; 25 1/2 weeks.
Tatojan .....	Deep cut on back of head with possible fracture; 30-4/7 weeks.
Boshnoski .....	Contusion of right foot; 5-1/7 weeks.
Harris .....	Contusion and fracture of right foot; 10-6/7 weeks.
Luebke .....	Amputation of left little finger below second joint; 30 weeks.
Brown .....	Complete severance of whole index finger on right hand; 30 weeks.
Balich .....	Compound fracture of second and 3rd last toes on left foot; 41 weeks.
Cernall .....	1st and 2nd degree burns of right and left legs below knees; 3-2/7 weeks.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Stanley .....	Compound comminuted fracture of the toes of left foot; 60 weeks.
210 Farkas .....	First, second, third and fourth fingers; 48 weeks.
Seemp .....	Burn and infection to left foot; 2 1/7 weeks.
Exidis .....	Contusion of left leg; 4 weeks.
Susnaro .....	Sprain of back in lumbar region; 3 4/7 weeks.
Dokter .....	Severe contusion to upper lip; some teeth loose and one inch split of tongue; 5 weeks.
Busa .....	Severe contusion and abrasion of all toes of right foot; 31 weeks.
Howard .....	Compound fracture and dislocation of left elbow joint; fractured ribs and fracture of skull; 50 weeks.
Goluoich .....	Sustained burns to face, chest, back of left arm; 3 5/7 weeks.
Radilis .....	Burn on back and neck; 2 3/7 weeks.
Contreras .....	2nd and 3rd degree burns over entire face; 2 6/7 weeks.
Cobanne .....	Cole's fracture of right fore-arm; 49 weeks.
Pdzwite .....	Loss of entire index finger of left hand; 49 weeks.
Dott .....	Fracture of base of skull; 10 weeks.
Worthington .....	First degree burn of heel on left foot, which became infected; 4 3/7 weeks.
211 Garcia .....	Severe contusion with compound fracture of tibia of left leg; 13 weeks.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Hentesin .....	Crushing injury to second, third and fourth fingers of left hand; 30 weeks.
Sepiol .....	Laceration three inches long over left frontal bone; 9 weeks.
Washington .....	Fractured right fore-arm; 2 6/7 weeks.
Sarban .....	Amputation of right foot and half metatarsal of left great toe; 155 weeks.
Howell .....	Severe contusion of right arm with fracture of radius; 2 6/7 weeks.
Boleshki .....	Severe contusion and abrasion of entire right leg; 2 4/7 weeks.
George .....	Sprain of back; 2 1/7 weeks.
Balick .....	Fracture of rib on right side; 3 3/7 weeks.
Swentonivich .....	Severe contusion of left leg; 3 6/7 weeks.
Aldea .....	Fracture of ulna and radius of left arm; 6 4/7 weeks.
Szentz .....	Severe contusion and abrasion of legs, which became infected; 2 5/7 weeks.
Hetzag .....	1st and 2nd degree burns of back, arms and legs; 3 4/7 weeks.
212 Jadrank .....	Fracture of right leg; 8 1/7 weeks.
Smith .....	Second degree burns scattered all over body; scalp wound on left side of head; 3 weeks.
Nelson .....	Fracture of left wrist and probable internal injuries; 6 3/7 weeks.
Adams .....	Left hand crushed, necessitating amputation of hand.
Banek .....	Fracture of skull; nose and left arm; severe laceration of forehead and right ear; 37 6/7 weeks.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Bobur .....	Second degree burn of neck, face and both fore-arms; 4 $\frac{6}{7}$ weeks.
Glappin .....	1st and 2nd degree burns to entire face, neck; 1st degree burns to both wrists and shoulders; 4 $\frac{4}{7}$ weeks.
Thomas .....	Burns of the conjunctiva of eye and 1st degree burns of face and forehead; 2 $\frac{2}{7}$ weeks.
LaMon .....	Second degree burns around both eyes and 1st degree burns of neck, face and nose; 24 weeks.
Vuckovich .....	Severe contusion of right leg; 7 $\frac{3}{7}$ weeks.
Asalos .....	Fracture of foot; 19 weeks.
Shultz .....	Skull fractured; fatal.
Morasko .....	1st and 2nd degree burns of arms and outer surface of left leg; 5 weeks.
213 Evasu .....	Loss of great toe on left foot; 30 weeks.
Karahaulios .....	Crushing injury to right hand, necessitating amputation of third, fourth and fifth fingers; 94 $\frac{5}{7}$ weeks.
Malbasa .....	1st degree and 2nd degree burns of entire face; 3 $\frac{3}{7}$ weeks.
Maurich .....	1st, 2nd and 3rd degree burns on head above ear and neck and shoulder back, arms and legs and feet; 4 $\frac{3}{7}$ weeks.
Rheinberger .....	Amputation of little finger on right hand; 30 weeks.
Sauerman .....	Electric flash in both eyes.
Shaffe .....	Electric flash in both eyes.
Lorwich .....	2nd degree burn on right foot, at base of toes.
Doggett .....	Piece of steel in left eye.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Frank .....	Laceration of skin, inner and outer canthi of left eye.
Nihok .....	Sprain of right knee.
Comsa .....	Contusion and fracture of pelvis and internal injuries; fatal.
Sarus .....	First and second degree burn- on both cheeks and chin.
Rees .....	Left side of neck and face bruised; contusion of left arm and back.
Wurgo .....	1st degree burn,
Raisich .....	1st and 2nd degree burns on left hand.
214 Berry .....	1st degree burn on face, neck and ear.
Flieger .....	Contusion and bruise to lower part of chest and abdomen.
Ladere .....	1st and 2nd degree burn of right leg.
Dogintos .....	Contusion and abrasion of left leg and thigh; slight bruise on back.
Welsh .....	Contusion and laceration of left hand.
Jurgi .....	Laceration of cornea, with internal corneal hemorrhage.
Fosta .....	2nd degree burn intercanthia left the whole face.
Stamp .....	2nd degree burn on fore-arm of left arm.
Fortu .....	2nd degree burn intercanthia left eye.
Kartz .....	Abrasion and contusion right leg; possibly depressed fracture of right tibia.
Divjak .....	2nd degree burn on right hand and wrist.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Vrhavac .....	Squeezed between ladies; fatal.
Stinko .....	First degree burn of surface of all fingers.
Vendovsky .....	Hand bruised; probable fracture of thumb of left hand.
Hrieko .....	Contusion of left side of face and back of head.
215 Mullas .....	Acid burn of both wrists.
Boern .....	Multiple compound fracture of left foot, with probably amputation; fatal.
Griffith .....	Electric flash in eyes.
Vinereon .....	2nd degree burn on left leg and foot.
Winter .....	2nd degree burn on right side of back.
Dugger .....	Fracture of ribs on left side.
Gurney .....	2nd degree burn of calf of left leg.
Ragi .....	Skull fractured; fatal.
Medovich .....	2nd degree burn on back of left foot and first degree burn of left wrist
Gulick .....	Cuts around outside of eye and injury to cornea.
Rindokas .....	Severe laceration of chin.
Urnia .....	Contusion of abdomen.
German .....	Compound comminuted fracture of right foot; multiple fracture of left foot; fatal.
Check .....	2nd degree burn on back of neck and back.
Castro .....	2nd degree burn on back of neck and both wrists.
216 Pelic .....	Contusion of outer side and lower half of left leg.



Name of employee.	Character of injury, extent of disability, or compensation granted.
Sirlin .....	Incomplete fracture of 19th rib.
George .....	Severe contusion of instep of right foot.
Varcas .....	Glass in cornea of eye.
Perry .....	2nd degree burn over posterior surface of entire fore-arm; also thumb and middle finger on right hand.
Lee .....	First degree burn to entire surface of both feet.
Robinson .....	2nd degree burn near posterior border of left fore-arm.
Luknie .....	Severe strain of back.
Natek .....	Contusion of entire surface of left leg and foot.
Corriana .....	Sprain of left side and back.
Cyllin .....	Corneal ulcer.
Bikis .....	First and 2nd degree burns on right scapular region; also on right arm.
Petrosoff ..	First degree burn to inner margin of upper and lower eyelids of left eye.
Fuhrmark .....	Contusion to muscles of back and abdomen.
Conleson .....	Laceration and contusion on top of head.
217 Grover .....	Severe contusion over abdomen.
Smith .....	Corneal ulcer of left eye.
Martan .....	Contusion of right hypo-condriac region; incomplete fracture of one rib.
Magda .....	Deep laceration 1½ inches long left supra parietal region.
Kruelaksis .....	Incomplete fracture of left 5th rib.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Young .....	Sprained back.
Andro .....	Fracture of 4th dorsal vertebrae, partial severance of spinal cord; fracture of skull.
Morningstar .....	2nd degree burn of entire face.
Ayala .....	Infection of right leg in sores.
Touchevik .....	2nd degree burn on left elbow; first degree burn over entire left side.
Pryacha .....	First degree burn of right side of chest.
Braz .....	Laceration 2 inches long on left frontal region.
Crigar .....	Contusion to right infra-scapular region.
Pakovich .....	2nd degree burn on left fore-arm.
Felire .....	Injury to head and back. Incomplete fracture of skull.
Brucks .....	Sprain of back, lumbar region.
218 Randal .....	Severe contusion with fracture of right knee.
Bills .....	Puncture wound with first degree burn to outer side of left leg.
Karshales .....	Overcome by gas.
Sankach .....	Severe contusion of left elbow joint.
Charla .....	Severe laceration to top of head.
Myers .....	2nd degree burn to right arm.
Billaponda .....	Sprain of muscles in back.
Feczla .....	Severe sprain to muscles of back.
Darlan .....	First degree burn of heel and ankle of left foot.
Samuels .....	Contusion to head.
Costonon .....	Sprain of muscles of back, scapular region.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Novat .....	Severe contusion to abdomen.
Gurka .....	First degree burn across right shoulder.
Barunica .....	Injury to right eye ball; 8-3/7 weeks.
Seinks .....	2nd degree burn to top of right hand.
Hudish .....	Puncture wound in center of left cheek.
Sherwood .....	Laceration to top of head.
219 Kolcha .....	Loss of right foot.
Gamish .....	Fracture of left wrist.
Burchich .....	First degree burns to entire face.
Balla .....	First and 2nd degree burns to right wrist.
Pelcar .....	Piece of emory bedded in left eye.
Talliner .....	First degree burn to entire face and flash to both eyes.
Mongommus .....	Rupture of left eye ball.
Vessel .....	Found dead at soaking pits.
Moldovan .....	Sustained burns and injuries from which he died.
Sheffield .....	Laceration 1½ inches long on top of head; 42-5/7 weeks.
Pepich .....	Severe contusion to right side of back.

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Name of employee.	Character of injury, extent of disability, or compensation granted.
220 Kreacakin .....	Squeeze of left hand, with deep ragged laceration 1 inch long on the palm of proximal phalanx of index and middle fingers respectively; abrasion ½ inch in diameter on dorsal surface of proximal phalanges of index and middle fingers. 20 days off.

Character of injury, extent of disability, or compensation granted.

Name of employee.

Kodasher .....	Second degree burn, extensor surface of left fore-arm, lower third of left arm, and also all surfaces of the left hand. All surface of right hand and flexor surface of lower third of the right fore-arm; widely scattered area, $\frac{1}{2}$ inch in diameter over anterior surface of chest and abdomen; 2 inches in diameter on anterior surface of right knee; entire face, neck and ears; upper half dorsal region of back; an area 2 inches in diameter left lumbar region; entire scalp, except two areas, 2 inches and 1 inch in diameter, respectively in the left parietal region; 44-1/7 weeks.
Maros .....	Squeeze on the lower two-thirds of right leg, with an abrasion 2 by 1 inches on the external surface and 1 inch in diameter on the internal surface; 14 days.
Peturis .....	Chip of metal embedded in the lower central portion of left cornea, with resulting deep abrasions $\frac{1}{32}$ of an inch in diameter; 12 days.
221 Klinski .....	Contusion of dorsal surface of right foot, with simple fracture of distal portion of first metatarsal bone; 28 days.
Stirca .....	Simple fracture of both bones of right leg, in the middle 3rd, with an abrasion two inches in diameter on the anterior surface of middle 3rd; 223 days.
Stasa .....	Second degree burn of right side of neck; scattered areas of second degree burn over the cutaneous surfaces of both eyelids of both eyes and the adjacent skin; first degree burn of the remainder of face; 31 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Croutty .....	Loss of soft tissue of right with the end of the os calcis exposed; 309 days.
Kavahevich .....	Severe squeezing injury of right foot and ankle, with fracture of the astragalus; 41 days.
McNamara .....	Contusion of 1st, 2nd and 3rd toes of right foot; loss of 3rd toe through distal phalanx; 45 weeks.
Fluecos .....	Second degree burn on legs, thighs, face and first degree burn on neck; 63 days.
McDonald .....	Squeeze of right hand with simple comminuted fracture of the metacarpal upper bone, which corresponds to the middle finger; 30 days.
Hecht .....	Crushing injury of left fore-arm in its lower $\frac{1}{4}$ , with compound comminuted fracture of both the ilia and radius, with a loss of a section of the radius, about $\frac{1}{2}$ inch long; 3 months, 5 days.
222 Markovich .....	Amputation of middle and ring fingers near proximal end of middle phalanges; 45 weeks.
Alle .....	Sprain of right wrist; 51 days.
Koffas .....	Crushing injury of right fore-arm with fracture of both bones and fracture of three bones in right hand; 384 days.
Souber .....	Scattered areas of 2nd degree burn over surface of left leg; also external surfaces of left thigh and the left side of abdomen; 62 days.
Ghopy .....	Amputation of right ring finger through extreme distal portion of middle phalanx; deep cut on middle finger; 22-4/7 weeks
Pusim .....	Fracture of both bones of left fore-arm; 96 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Sabotieh .....	Fracture of left thigh bone and dislocation of knee; 399 days.
Micholowski .....	Compound, comminuted fracture of both bones of left leg, lower 1/3; 294 days.
Kilimas .....	Widely scattered areas of 2nd degree burn varying from 1/2 inch to 2 inches in diameter, over back, with several areas 1/2 inch in diameter on the posterior domes, and several areas 1/2 inch in diameter on surface of ab-surface of left arm, and an area 1/2 inch in diameter on radial border of middle phalanx of left middle finger; first and second degree burns of occipital region of the scalp; 23 days.
223 Tromp .....	Crushing injury of right hand and lower 3rd of fore-arm, severing the fore-arm in its lower 3rd, except small strands of soft tissue.
Skender .....	Second degree burn, 4 inches by 3 inches on the posterior lateral surfaces of the left foot over the tendon Achilles; 65 days.
Thomas .....	Simple fracture of the left tibia about 5 inches below knee joint; simple comminuted fracture of the upper extremity of the left tibia into the knee joint; 112 days.
Dennis .....	Right thumb severed through the middle of the proximal phalanx; 60 weeks.
Hnez .....	Right thumb severed thro the proximal portion of the proximal phalanx, and the soft tissues are removed from the distal portion of the corresponding metacarpal bones; 60 weeks.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Rock .....	Squeeze of right foot and ankle with simple dislocation of proximal end of metatarsal bone, which corresponds to great toe; simple fracture of proximal ends of second and third metatarsals, and incomplete fracture of shaft of second metatarsal; 41 days.
Mrksaic .....	Second degree burn of entire face; 33 days.
Takash .....	Burn of face and ears; ophthalmia electrica of eyes; 14 days.
224 Bringman .....	Compound fracture of right femur and lower third, with a deep laceration $1\frac{1}{2}$ inches long on internal surface; 139 days.
Feretus .....	Amputation of about $\frac{1}{2}$ inch of bone of distal phalanx of thumb of left hand; 15 weeks.
Hebron .....	Second degree burn of dorsal surface of both hands and all surfaces of both fore-arms, and second degree burn of face; 24 days.
Cindrick .....	Simple comminuted fracture of the right radius at the junction of the middle and lower thirds, simple fracture of the ulna at the junction of the middle and lower thirds, with simple fracture of styloid process of ulna; 62 days.
Davis .....	Second degree burn about body; 76 days.
Romanchenko .....	Second degree burn about body; 90 days.
Pryascak .....	Simple impacted fracture of the upper portion of the left femur; 87 days.

Name of employee.

Character of injury, extent of disability, or compensation granted.

Hennessy .....	Squeeze of the chest, with fracture of the fourth and fifth ribs in auxiliary line, and marked surgical emphysema over the entire right side of chest; squeeze of left arm, with abrasion on entire external surface; 37 days.
Urška .....	Squeeze of the lower portion of the left side of the abdomen; 25 days.
225 Zallin .....	Second degree burn of face, ears and lower portion of occipital region of scalp, neck, right knee, upper third right leg, left knee, and dorsal surface both feet, right fingers and right wrist; 130 weeks.
Wilhelm .....	Third degree burn foot and ankle, left; 72 2/7 weeks.
Staniories .....	Deep-seated particle in middle of right cornea, with resulting abrasion; 50 weeks.
Radack .....	Amputation of the distal phalanx of the middle finger through its proximal portion; 30 weeks.
Kellog .....	Amputation of the left middle and ring fingers thro the distal portion of the middle phalanges; 60 weeks.
Grabus .....	Second degree and third degree burn on the mucous surface of right lower eyelid; 13 days.
Pastoviz .....	The right index, middle and little fingers are severed through the proximal portions of the middle phalanges, and the ring finger through the distal portion of proximal phalanx; left index, middle and ring fingers severed through the proximal portions of the middle phalanges; 120 weeks.



Name of employee.	Character of injury, extent of disability, or compensation granted.
Chamorro .....	Deep irregularly transverse laceration across popliteal space of right leg, severing internal hamstring muscles, and lacerating but not severing external hamstring muscles, and widely exposing popliteal nerves; 130 days.
226      Raphus .....	Squeezing injury of the right foot with a deep laceration 3 inches long along its inner border, with a deep laceration extending transversely across the foot from the base of the little toe to the ball of the foot over the distal portion of the second metatarsal bone; compound fracture of the distal portion of the fourth and fifth metatarsal bones; 150 days.
Vemak .....	Squeeze of the right foot, with a band of second degree burns $\frac{1}{2}$ inch wide across the dorsal surface of the foot and over the middle of the shafts of the metatarsal bones; 65 days.
Pesut .....	Squeeze of the right foot, and the lower third of the right leg; 51 days.
Kuhule .....	Third degree burn of the left cornea; there will be serious impairment, and probably total loss of the vision of right eye; 100 weeks.
Konovis .....	Squeezing injury of left foot, with deep laceration 6 inches long on the inner side of foot, and compound dislocation of both ends of proximal phalangeal bone of great toe; 45 weeks.
Drayton .....	Severe squeeze of left foot, with fracture of cuboid bone; 89 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Kuchl .....	Squeeze of both legs, with simple comminuted fracture of the right tibia, and a simple fracture of both bones of left leg in upper third; 86 days.
Kalisevski .....	Crushing injury of the pelvis, and compound fracture of right femur; 91 days.
Isck .....	Second degree burn of cutaneous surface right eyelid. Third degree burn outer half of mucous surface of lower lid; the other half of cornea is burned, and the outer lower of the cornea is curetted off; 39 days.
227 Gonigan.....	Simple comminuted fracture of the right radius at the junction of the lower and middle thirds; simple dislocation flexor surface of wrist at lower end of the right ulna; 34 days.
Ross .....	Crushing injury with amputation of distal phalanx of right index finger thro its proximal portion; 15 weeks.
Cichon .....	Puncture wound of right eyeball; 100 weeks.
Murray .....	Second degree burn of surfaces of both feet, except the plantar surfaces of the lower half of legs; all surfaces both hands and both fore arms, and an area four inches in diameter in left gluteal region; 135 weeks.
Sargent .....	Contusion, with deep ragged laceration 2½ inches long on the vertex of scalp; 45 days.
Ofrionink .....	Fracture of the right femur; 108 days.
Wilson .....	Ulcer 1/16 inches in diameter in upper central portion of the right cornea; loss of eye; 100 weeks.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Roberts . . . . .	Crushing injury of right hand, with numerous cuts and abrasions and fractures; 120 weeks.
Lucas . . . . .	Scattered areas of second degree burn on extensor surface of left leg; second degree burn $\frac{1}{2}$ inch in diameter on extensor surface of the left ankle; scattered area $\frac{1}{8}$ inch in diameter on dorsal surface of both feet; 53 days.
228 Mihall . . . . .	Second and third degree burn over nearly all of back and on palm of hand, right; 33 days.
Kadlee . . . . .	Complete transverse fracture of the right radius; 24 days.
Wilson . . . . .	Second and third degree burn over area 4 x 6 inches on sole of left foot; 78 days.
Yonsich . . . . .	Second degree hot water burn on external and posterior surface of the lower two-thirds of right thigh; second degree hot water burn of entire right leg; same 8 x 3 inches on anterior surface of the left side of the chest and abdomen; same on the circumference of the right wrist; same on flexor surface of lower third of left forearm; 44 days.
Gayer . . . . .	Second degree burn one inch in diameter on upper portion of the anterior surface of chest in the medial line; several areas of second degree burn each $\frac{1}{2}$ inch in diameter in left lumbar region and above left hip; two areas of second degree burn each $\frac{1}{2}$ inch in diameter on the dorsal surface of the left wrist; laceration $\frac{1}{2}$ inch long on right

Name of employee.	Character of injury, extent of disability, or compensation granted.
	cheek; scattered areas of second degree burns each $\frac{1}{2}$ inch in diameter on dorsal surface of right fore-arm; 21 days.
Michael .....	2nd degree burn of right dorsal surface of right hand; first degree burn of face and all surfaces of the left fore-arm; 2nd degree burn 4 x 3 inches on the posterior surface of right heel; 2nd degree burn 2 inches in diameter in left lumbar region of back; 55 days.
220 Koss .....	Crushing injury of left leg at lower third, severing leg except for some shreds of soft tissues; squeeze of right great, second and third toes, with loss of nails and all of the epidermis of the distal phalanges; 125 weeks.
Laderer .....	Contusion of anterior surface of lower two-thirds of left leg, with laceration $\frac{1}{2}$ inch long on anterior surface, and compound fracture of tibia at junction of the lower and middle one-third; 69 days.
Kotlarik .....	2nd degree burn on right dorsal region of the back and the extensor surface of the right arm and extensor surface of fore-arm; 19 days.
Watkins .....	Conjunctivitis of the right eye; 18 days.
Redman .....	Squeezing injury of chest; abrasion 2 inches in diameter, laceration 1 inch long on left elbow; 45 days.
Nicholas .....	Bruise of left side of face, with fracture of lower jaw; 32 days.
Newman .....	Squeeze of left thigh, with deep laceration 14 inches long transversely across posterior surface of upper third; deep laceration 3 inches long in per-oneum; 54 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Hancock .....	Contusion of the anterior surfaces of the middle thirds of both legs; laceration 1 inch long on the external surface of lower third of right leg.
230 Sullivan .....	Eptholmea electrica both eyes; first degree burn of the face.
Paganox .....	Adherent particle in the outer central portion left cornea.
Monager .....	Severe contusion of the dorsal surface of the left foot, with fracture of the shaft of middle metatarsal bone.
Lodo .....	Epthelmea electrica of both eyes.
Gdlhor .....	2nd and 3rd degree burn entire body; fatal.
Angeloff .....	Squeeze of right thigh, with compound fracture of femur.
Konstarich .....	Crushing injury of left foot, with compound comminuted fracture of metatarsal bones, with deep laceration 1½ inches long on external portion of dorsal surface; two lacerations each 1 inch long on dorsal surface over first and middle metatarsal bones.
Veech .....	Third degree burn right occipital region; 2nd degree burn right ear; 2nd degree burn left ear; 3rd degree burn right hand and wrist.
Lobash .....	Squeeze of the abdomen.
Novasel .....	Crushing injury and burns on both legs; fatal.
Nikolich .....	Puncture wound anterior surface right knee.
Wood .....	Left ankle broken.
231 Carey .....	Overcome by gas; ½ inch laceration in left occipital region; abrasion on point of chin; conjunctivitis in both eyes; first degree burn of entire face.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Dagdanovich .....	Squeeze of the pelvis; simple fracture of the descending and horizontal and cubic ramus; complete rupture of the urethra.
Svetitz .....	Contusion with abrasions of both hips, knees and the sacral region.
Kania .....	Contusion with abrasion in the left iliac and lumbar regions.
Horwitz .....	Severe conjunctivitis of both eyes, with particles of naphthalene adherent to the bulbular conjunctiva and mucous surface of both lids of both eyes.
Johnson .....	Contusion right side of chest; 2nd degree burn on right cheek.
Gustafson .....	Crushing injury of scalp; fatal.
Ketunich .....	Squeeze of the chest with deep abrasions over the entire back.
Cwiklinski .....	Deep, irregular shaped laceration, 6 inches long in the left frontal and temporal regions of the scalp; the skull is widely exposed.
Baltrusic .....	3rd degree burn of face, neck, entire trunk, all surfaces of both fore-arms and hands, and scattered areas of 2nd degree burn over thighs, legs and feet; fatal.
232 Fusko .....	Squeeze of right leg.
Rodmanovich .....	Epthelma electrica of both eyes.
Stancher .....	2nd degree burn in inner canthus of right eye.
Safford .....	Foreign body with 2nd degree burn in middle of the lower portion of the right eye; 1/8 inch burn in lower central portion of cornea.
Shlovak .....	Squeeze of the pelvis and the left shoulder, with an abrasion 6x4 inches on posterior surface.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Yuma .....	2nd degree burn flexor surface of lower third left fore-arm.
Jordar .....	Burn of entire left cornea.
Buly .....	Fracture of lower end of right radius.
Ballard .....	2nd degree burn $\frac{3}{4}$ inch in diameter on dorsal surface of left foot over the 2nd and 3rd metatarsal bones.
Suslawich .....	Contusion of left side of chest with simple fracture of the tenth rib.
McKerlie .....	Squeeze of the pelvis; abrasion 8 by 2 inches in the sacral region; abrasion 1 inch in diameter over the right anterior superior iliac spine.
Figliulo .....	Foreign body in eye; deeply seated in center of right cornea.
233 Kochiva .....	Abrasion of nose and contusion of thigh.
Fabic .....	2nd degree burn of entire face with numerous particles of dirt embedded in the soft tissues.
Fluksa .....	Laceration of scalp.
Chogali .....	Amputation of right leg at upper third, and laceration of left thigh.
Volinsky .....	Abrasion $1/16$ inch in diameter in center of left cornea; numerous loose particles of glass floating on left eyeball; subconjunctiva hemorrhage about cornea.
Romanchanka .....	Crushing injury of the right arm, with a compound fracture of the humerus at the middle third, with no circulation in the fore-arm.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Mural .....	Scattered areas of 2nd degree burns $\frac{1}{2}$ inch in diameter on all surfaces of left fore-arm and in right scapular region; 2 areas of 2nd degree burns 1 inch in diameter in lumbar region of back.
Alonin .....	Scattered areas of 2nd degree burns $\frac{1}{2}$ inch in diameter on upper lip and on flexor surface of middle third of right fore-arm; 2nd degree burn $\frac{1}{2}$ inch in diameter on right lower quadrant of abdomen; 1st and 2nd degree burn on left side of neck and on posterior surface of neck; laceration $\frac{1}{2}$ inch long on posterior surface of left elbow.
234 Weens .....	Traumatic orchitis in right testicle.
Duenan .....	Squeeze of pelvis with abrasion 6 by 3 inches over right hip; abrasion 4 inches in diameter in left gluteal region.
Yas .....	Crushing injury to left hand, necessitating amputation of the thumb, index finger and part of little finger.
Evanich .....	Burn of entire left cornea except upper central portion. The burn involves outer layers of cornea only; linear cut $\frac{1}{8}$ inch long transversely across upper central portion of cornea, which does not penetrate anterior chamber, the margins of which are deeply burned.
Restoff .....	Simple fracture of lower extremity of right radius and styloid process of the ulna.
Elliott .....	2nd degree burn 3 by 1 inch on left ankle.



Name of employee.	Character of injury, extent of disability, or compensation granted.
Mastronikalos .....	Crushing injury of the abdomen and pelvis, with compound fracture of pelvis and extensive laceration of soft tissues; fatal.
Lostich .....	2nd and 3rd degree burn of the entire body except the feet and lower half of the right leg; fatal.
McCool .....	2nd degree burn on both forearms; 1st degree burn on left side of face.
235 Juzke .....	Numerous adherents particles with resulting abrasion in cornea of each eye; 1st degree burn on face; 2nd degree burn on anterior wall of right external auditory canal.
Dobisk .....	Squeeze of 4th and 5th toes, with ragged laceration $\frac{1}{2}$ inch long on the plantar surface of proximal phalanx of the 4th toe and a simple fracture of the distal phalanx of the 5th toe.
Povich .....	Deep laceration $1\frac{1}{2}$ inches long over left side of nose; also cut 1 inch long over bridge of nose; fracture of right shoulder blade and rib.
Seltin .....	Epthelmia electrica of both eyes.
Lara .....	Contusion of upper and middle third of right thigh.
Smith .....	Squeezed between column and end of crane; fatal.
Sulkowski .....	Fracture of skull; fatal.
Hatzyk .....	Deep 2 inch cut across dorsal surface of right hand from metacarpal bones that correspond to to the middle and ring fingers; extensor tendons of these fingers are exposed.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Riemenschneider .....	2nd and 3rd degree electric burns about body; fatal.
Chitwood .....	Hit on head by brick; fatal.
Pettigrew .....	Electric shock and burn; fatal.
236 Stamich .....	2nd degree burn of entire back from top of head to heels; 3rd degree burn of both hands above fore-arms, lower half of both arms and face; fatal.
Peres .....	Caught between ore unloader bucket and — while working in hatch; fatal.
Krajack .....	Contusion with 2 inch laceration in upper portion of occipital region with compound comminuted depression fracture of skull in that locality including circular area 1 inch in diameter.
Kibart .....	2nd and 3rd degree burn of face and scalp, and all surfaces of both hands, entire back, the extensor surface of both arms and fore-arms, the right gluteal region; scattered small areas about left ankle; 3rd degree burn 6x3 inches and posterior and lateral surfaces of right ankle.
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Husty .....	Hit in left groin with sledge.
Brown .....	2nd degree burn on right side of face, and 2nd degree burn on flexor surface of right wrist.
Anderson .....	3rd degree burn $\frac{1}{4}$ by $\frac{1}{4}$ inch, upper and lower eye lid.
Konopka .....	Severe contusion of third toe.
Peterson .....	Contusion of dorsal surface of left foot, over 4th and 5th metatarsals; severe sprain of ankle; possible fracture.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Morchuk .....	Contusion and multiple abrasion on anterior surface of right leg, between ankle and knee.
Gilman .....	2nd degree burn on dorsal surface of left middle and index finger, and right index, middle ring and little fingers.
Subio .....	3rd degree burn over left eyebrow; 2nd degree burn below left eye.
Pejer .....	2nd degree burn on entire left side of face and left ear.
Baron .....	Deep laceration one and a half inches long, vortex of scalp.
Gonzar .....	Right leg severely crushed between two piles of steel.
238 Webber .....	Compound fracture of distal phalange of left ring finger.
Oponik .....	Severe infection of middle finger of left hand; palmer surface of middle phalanx right middle finger.
Fisher .....	Crane passe dover body; fatal.
Hanns .....	Severe contusion, right side.
McDowell .....	3rd degree burn 1½ by 2 inches over forehead.
Jeffers .....	Laceration 1½ inches long; vortex of scalp.
Guamo .....	Deep seated particle in center of left cornea and visual field; infected.
Roceriquez .....	Compound fracture of middle phalanx of left thumb.
Blankenship .....	2nd degree burn on left side of face, and ear.
Long .....	Severe conjunctivitis, both eyes.
Coleman .....	Puncture, one by one and a half inch deep, over right inguinal region.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Dolton .....	Hot scale in upper corner of right eyelid.
Babcock .....	Heat prostration; temperature 101.
Wilson .....	Laceration $\frac{1}{2}$ inch below left knee.
Zuschlax .....	Conjunctivitis of both eyes.
239 Thompson .....	Contusion of all toes of right foot.
Davis .....	Contusion of dorsal of entire right hand and all fingers.
Mitchell .....	Laceration 3 inches long anterior surface, upper third of right leg.
Zekusia .....	2nd degree burn, dorsal surface, left thumb.
Laskowski .....	Crushing injury to left second, third and fourth toes; middle phalanx of left third toe.
Crepps .....	Compound comminuted fracture and dislocation of right ankle; fracture of right anterior malleolas and distal one-third right fibula; deep laceration 4 inches long over right internal malleolas, with bone of joint projecting.
Lypus .....	Laceration 2 inches long, vortex of scalp; severe strain of neck. 27 days.
Anderson .....	First finger amputated; 36 days.
Brennan .....	Burn on left hand with hot oil; 15 days.
Rensel .....	2nd and 3rd fingers of left hand severely mashed; 30 days.
Huffman .....	Crushing injury to right great toe with laceration of nail area and laceration $\frac{1}{4}$ inch long on plantar surface of distal phalanx; 30 days.
240 Patolichis .....	Punctured wound $\frac{1}{2}$ inch deep over first right metatarsal; 32 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Linge .....	Squeezing injury to right knee joint, with fracture of lower half of patella; patella torn loose at lower insertion internal ligaments of knee joint lacerated allowing partial dislocation; 73 days.
Sarafin .....	3rd degree electrical burn 3 by 3 inches over exterior surface of left knee joint; 30 days.
Zaport .....	Right leg crushed between two piles; 41 days.
Noronovich .....	Infected right middle finger; 118 days.
Marchenisk .....	Simple oblique fracture of middle third of right radius of right arm; 97 days.
Ginaris .....	Amputation distal half of distal phalanx of right thumb; squeezing injury to distal phalanx, right index finger, with laceration $\frac{1}{2}$ inch over palmer surface.
Barnes .....	Triple fracture of right internal malleolus; severe strain of ankle; 42 days.
Demonak .....	2nd and 3rd degree burns on right hand; 57 days.
Stender .....	Laceration through inner half of right eye ball, penetrating both chambers; loss of sight.
Wilkinson .....	3rd degree, hot metal burn encircling both ankles; 28 days.
241 Varga .....	Compound fracture of fibia and tibia of left leg; 124 days.
Kowalski .....	Fracture of left leg at juncture of upper and lower third; abrasion 2 by 2 inches on right fore-arm; contusion and laceration under eye, and above right eye; deep laceration 2 inches, at base of skull; loss of hearing in left ear; 115 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Ruffin .....	Hot metal 3rd degree burn of right foot, over entire surface; tips of toes burned off; plantar fascia burned through; 3rd degree burn over upper third of thigh, inner and outer surfaces; 3rd degree burn of entire dorsal surface proximal phalanx of left middle finger.
Jackson .....	Hot sand got in glove; 14 days.
Swezy .....	3rd degree burn 1½ by 1½ inches over right tendon Achilles; 32 days.
Sabo .....	Compound fracture of bone in left fore-arm, and abrasion of second and little fingers of hand; 49 days.
Kelly .....	Squeezing injury of left foot; severe strain of ankle; 24 days.
Kobadosky .....	Amputation of left ring finger through distal third of middle phalanx; 20 days.
Scheninoki .....	3rd degree burn 2 by 2 inches on instep of right foot; multiple 3rd degree burn down back, from shoulder to buttocks; 39 days.
242 Jaros .....	Forefinger of left hand crushed; 53 days.
Yatka .....	Severe strain of right ankle, with probably fracture of external malleolus swollen and discolored; 21 days.
Sargenti .....	Crushed injury to left fourth toe, with deep laceration 1 inch long over plantar surface and loss of nail; 45 days.
Dongur .....	Puncture wound 1½ inch long, anterior surface, middle third left leg infected; 16 days.
Benford .....	3rd degree burn upper and lower lid, near inner canthus; 30 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Figkino .....	Crushing injury to distal phalanx left middle and ring fingers; loss of nails, and laceration of nail area; compound fracture of distal phalanx left middle finger, with loss of distal half of distal phalanx; 105 days.
Marchetti .....	Contusion over 2nd, 3rd, 4th and 5th metatarsals, with possible fractures; 44 days.
Furko .....	Fracture of right ankle; 42 days.
Lewis .....	Crushing injury to right left finger, with compound fracture of distal phalanx; deep laceration $\frac{1}{2}$ inch long on palmer surface; 30 days.
Lunden .....	Loss of left eye.
243   Zalinski .....	Severe contusion of left hand and bone crushed to second phalanx; 27 days.
Athereton .....	Right foot severely burned; 21 days.
Wasylo .....	Steel in corner of left eye.
244   Franko .....	Great toe of left foot fractured; 100 days.
Marosky .....	Right side sprained; 38 days.
Gasak .....	Right wrist burned; 20 days.
Smith .....	Thumb badly crushed; nail had to be removed; 66 days.
Furie .....	Left hand bruised; 25 days.
Betts .....	Back sprained; 14 days.
Comonouico .....	Right arm bruised and swollen; 55 days.
Simasha .....	Upper lip cut and leg bruised; 32 days.
Francieh .....	Left wrist bruised by handle of winch; 30 days.
Miklulack .....	Piece of steel in left eye; 15 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Zaknak .....	Left leg burned; 28 days.
Reed .....	Back and shoulders burned; 40 days.
Kaninski .....	End of second finger crushed; 22½ days.
Gaglia .....	Third finger left hand injured; 210 days.
Sullivan .....	Right arm pinched and bruised at elbow; 22 days.
245 Goocher .....	Face burned; 28 days.
Reguly .....	Left foot bruised; 45 days.
Drevjanka .....	Leg bruised; 29 days.
Nemchek .....	Left leg burned; 39 days.
Kacsursky .....	First finger of right hand badly bruised; 41 days.
Holte .....	Face burned; 14 days.
Seitz .....	Left side of back bruised just below waist; left sacra iliac separation of moderate degree; 18½ days.
McCarthy .....	Foot burned; 41 days.
McClain .....	Ankle of left foot slightly burned; 20 days.
Breslin .....	Right hand badly cut; 21 days.
Toth .....	Right side injured; 27 days.
Blechman .....	Top of left foot bruised, possibly some small bones broken; 64 days.
Miller .....	Right shoulder bruised; 12 days.
Hassen .....	Back sprained; 26 days.
Grokol .....	Index finger left hand bruised; 25 days.
Kosceki .....	Left foot bruised; 28 days.
Prissol .....	Foot badly bruised; 34 days.



Name of employee.	Character of injury, extent of disability, or compensation granted.
246 Markovitz .....	Eye badly inflamed; foreign body embedded in eye; 22 days.
Lukaesek .....	Injury to abdomen; 50 days.
Keller .....	Left eye injured; 42 weeks.
Vargo .....	Large toe of right foot badly bruised; 60 days.
Utesch .....	Right foot bruised; 42 days.
Skalehas .....	Right leg badly bruised; 42 days.
Keim .....	Both hands and right side of face and neck burned; 39 days.
Horvath .....	Right rib fractured; 40 days.
Belich .....	Back bruised; 12 days.
Custra .....	Back of right hand bruised and cut; 63 days.
Neznjke .....	Neck and shoulders bruised; 35 days.
Bajer .....	Scalp wound; 37 days.
Yancek .....	Right arm badly crushed; 133 days.
Dust .....	Index finger of right hand badly crushed; 26 days.
Krzmaric .....	Third finger on right hand crushed; 32 days.
Tomko .....	Great toe of left foot crushed; 14 days.
Dibel .....	Finger poisoned and inflamed; 12 days.
247 Palikan .....	Index finger of right hand cut; 18 days.
Slacjn .....	Acid burn on left side of face and both arms; 13 days.
Kline .....	Left shin bruised; 65 days.
Clark .....	Left hand badly mashed near wrist; 103 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Graves .....	Oil and wax skin cancer on right hand; 34 days.
Kovach .....	Bruised back and right leg; 14 days.
Wallace .....	Loss of right eye.
Szaba .....	Face burned; 14 days.
Kozlowski .....	Rupture of left side.
Vukulic .....	Arms and shoulders covered with boils from oil and wax; 3 1/7 weeks.
Radich .....	Hernia; 35 days.
Partigan .....	Burned face and hand.
Viianelli .....	Acid and oil in right eye; 10 days.
Yackshaw .....	Tooth cracked and upper lip cut; 16 days.
Arsenault .....	2nd finger smashed; 15 weeks.
Kranz .....	Burned right foot; 22 days.
Egri .....	Leg burned above knee; 41 days.
248 Quinn .....	Fractured skull.
Jarasack .....	Head and back injured and cut on hand; 15 days.
Bent .....	Eye burned with light; 28 days.
Felinak .....	Small sores on right hand; 14 days.
Corcoran .....	Face badly burned; 12 days.
Fitzimmons .....	Flesh burned around right ankle; 14 days.
Cronowicz .....	Boils on arms from wax and oil; 31 days.
Kronik .....	2 toes crushed; 28 days.
Slancannin .....	Middle finger of left hand cut; 19 days.
Koscis .....	Nail on great toe loosened; 15 days.
Tyndal .....	Leg broken above knee; 161 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Wormik .....	2nd finger on right hand badly bruised; 23 days.
Gross .....	Abscess palmist surface right hand; 21 days.
Selenian .....	Head cut; 58 days.
Ludwig .....	First 3 fingers of left hand cut badly; 23 days.
Stefanowski .....	Left arm cut above elbow; 31 days.
249 Vine .....	Right leg broken between knee and hip; 94 days.
Margetic .....	Right leg sprained; 19 days.
Evanich .....	Hand burned; 25 days.
Gorges .....	Face and hands burned; 22 days.
Murray .....	Neck broken; fatal.
Fontin .....	Contusion of back and right side.
Cappage .....	Right leg blistered.
Antonovich .....	Left eye burned.
Haas .....	Left thumb badly bruised.
Naef .....	Right arm broken, and body bruises.
Dunov .....	Right ankle sprained.
Banno .....	Back and shoulders burned.
Dado .....	Burns on large portion of body; fatal.
Redsky .....	Left side of head bruised.
Trejak .....	Slight laceration on leg above shoe top.
Nargie .....	Finger on right hand bruised.
Hammersley .....	Back of left hand badly burned.
Belle .....	First three fingers of left hand bruised.
Bendra .....	Cut on forehead.
250 Jewett .....	Eye injured.

Name of employee.	Character of injury, extent of disability, or compensation awarded.
Quastrom .....	Piece of glass in eyelid.
Titus .....	Back strained in lifting.
Town .....	Bruise on shoulder.
Dineen .....	Eyes poisoned.
Ralkin .....	Scalp wound.
Kovach .....	Hands blistered.
Greavn .....	Little finger on left hand badly bruised.
Shelby .....	Broke left leg above knee.
Lonsar .....	Eye inflamed.
Biro .....	Left eye injured.
Schofield .....	Face cut and bruised.
Westmy .....	Face and right arm burned.
Cole .....	Right hand slightly burned.
Sluka .....	Strain on right side.
Cikulin .....	Injured internally.
Barbee .....	Strained abdomen.
Hoppe .....	Left eye burned.
Pachick .....	Right foot and leg burned.
Korce .....	Right foot and wrist bruised.
251 Ivan .....	Foot badly bruised.
Estok .....	Right arm burned.
Vogel .....	Top of head bruised and scalp cut.
Blahunka .....	Back sprained.
(No name) .....	Back bruised.
Blandgarb .....	Back sprained.
Dorgan .....	Broken rib.
Kinsella .....	Eye injured.
Chernotta .....	Face badly burned.
Henrikson .....	Right leg broken between knee and ankle.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Dolan .....	Left hand bruised.
Chorley .....	Back sprained.
Burgess .....	Wrenched back.
Chance .....	Scalp wound; outer table frontal bone crushed; slight injury to hip; nose broken; injury to knee; minor cuts and bruises over body.
Smith .....	Strained back.
252 Payne .....	Strained hip.
Chambers .....	Mashed first finger of right hand.
Hardisty .....	Skinned right limb.
Walker .....	Sprained right ankle.
Krisa .....	Rupture of stomach.
Jones .....	Infected arm.
Hutton .....	Broken middle finger on left hand.
King .....	Broken wrist.
Hendrix .....	Injured right hip.
Farichild .....	Mashed left hand.
Schmitley .....	Bruised limb; 21 days.
Sluss .....	Broken shoulder; 16 days.
Bell .....	Infected left foot; 15 days.
Edwards .....	Splinter in right hand; 13 days.
Canatzy .....	Poisoned hand; 30 days.
Wells .....	Mashed right foot; 18 days.
Burton .....	Deep torn abrasion on underneath side of second finger of right hand; 21 days.
Luciani .....	Infection of right hand from scratch; 2 weeks, 3 days.
253 Burton .....	Right arm cut off.
Worley .....	Lacerated 2nd, 3rd and 4th fingers; 105 days.
Henry .....	Scalded right foot; 11 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Reynolds .....	Broken arm.
Hankins .....	Infected right hand; 11 days.
Evans .....	Sprained back; 13 days.
Ruka .....	Broken right wrist bone; 60 days.
Maysie .....	Amputated right hand above wrist.
Jones .....	Lacerated left foot; 14 days.
Williams .....	Broken toe on right foot.
254 Johnson .....	Nail stuck in right foot.
Bracker .....	Nail in right foot.
Taylor .....	Bruised second toe on left foot.
Hulbard .....	Mashed finger.
Brown .....	Piece of lumber fell on right side of face.
Swan .....	Cut over right eye.
Smith .....	Bruises on both sides of head.
Tyler .....	Mashed thumb.
Berry .....	Injury to side.
Blunk .....	Right foot injured.
Haws .....	Face and neck burned.
Wellborn .....	Injured little toe on right foot.
Flynn .....	Side of foot wounded.
Frasier .....	Foot swelling.
Ferguson .....	Lower lip cut, bruised and swollen.
Pinkard .....	Slight injury to foot.
Milner .....	Strained hip and back.
Post .....	Sprained right ankle.
255 Davenport .....	Nail in left foot.
Kimbrew .....	Stepped on nail.
Hamline .....	Bruised left arm.
Calvert .....	Stepped on nail.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Miller .....	Ran nail in right foot.
Denchfield .....	Nail in left foot.
Hampton .....	Sprained back.
Baughmann .....	Cut arm at elbow.
Coy .....	Cement in eyes.
Layman .....	Ran spike under skin about 1 inch.
Denchfield .....	Cut above right eye.
Mentlow .....	Nail in center of right foot.
Hall .....	Cut middle finger on left hand.
Pierce .....	Bruised on back of right hand.
McCoy .....	Small cut on head.
Garard .....	Scalp wound and bruised arm.
Cave .....	Bruised left hand.
Ketrow .....	Cut on lips and nose.
Wilson .....	Fractured nose and badly bruised limb.
Van Cort .....	Injured knee.
256 Livingston .....	Frozen fingers of right hand.
Livingston .....	Rupture on right side.
Guy .....	Arch of right foot injured.
Liston .....	Small of back sprained.
Leonard .....	Fractured rib.
Nixon .....	Side injured.
Temple .....	Wrenched back.
Baver .....	Drill bit penetrated left thigh between hip and knee; 26 days.
Swan .....	Bone in foot injured; 18 weeks.
McNulty .....	Strained muscles of back; 21 days.
Huey .....	Injured back and right leg; 25 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Stonebraker .....	Smashed first and second finger of left hand; 24 days.
Shuck .....	Struck foot with pick; 16 days.
Welty .....	Back injured; 17 days.
Elpers .....	Sprained ligaments, etc. about left knee joint; 51 days.
Suits .....	Frozen finger; 21 days.
Toomey .....	Frozen finger.
Snowden .....	Eyes badly injured.
Garard .....	Infection of hand; 23 days.
257 Gordon .....	Fractured wrist, cut over left eye and bruised limb.
Robinson .....	Ran nail into lower part of right forefinger; 5 weeks.
Lehman .....	Nail penetrated right foot; 17 days.
Seyfried .....	Strained back; 10 days.
Long .....	Mashed little finger and bruised limbs; 28 days.
Breight ..	Right shoulder muscles bruised; thumb on right hand torn; 10 days.
Sedam .....	Cut off end of little finger on right hand.
Johnson .....	Compound fracture of the left leg and scalp wound.
Post .....	Fracture of the jaw; 26 days.
Noel .....	Cut gash in scalp on right side of head; 14 days.
Sullivan .....	Fracture of base of skull; fatal.
Judt .....	Nail in foot; 25 days.
Wolf .....	Bruised left foot; 31 days.
Mayden .....	Left forearm cut; 21 days.
Miller .....	Blood poisoning; 13 days.



Name of employee.	Character of injury, extent of disability, or compensation granted.
Lindner .....	Little and ring finger with hammer.
Padgett .....	Eye inflamed; 25 days.
Manier .....	Bruised eye ball.

258 Hoosier Manufacturing Company, New Castle, Indiana,  
Manufacturers of Kitchen Cabinets.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Halpin .....	Cut on head.
Hutchinson .....	Right foot bruised.
Dudley .....	Mashed toe.
Selke .....	Bruised arm.
May .....	Gash on forearm.
Gibson .....	Glass in eye.
Dock .....	Bruised both feet.
Cormichial .....	Feet mashed.
Moffitt .....	Hand injured.
Jones .....	Two fingers mashed.
Dalzell .....	Cut left index finger off between proximal and metacarpal articulation, and mashed the end of left second finger.
Zell .....	Hand and arm mashed; 27 days.
Bruce .....	First and second fingers amputated at proximal articulation; small part of bone of proximal phalanx being removed; right third finger lacerated, involving a permanent impairment of 33 1/3 per cent; 70 weeks.
Prichett .....	Left third and fourth finger crushed off, requiring amputation at proximal articulation; left third finger lacerated.
259 Reger .....	Large toe on right foot, mashed.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Justice .....	Little finger on right hand mashed on tip, requiring amputation midway between distal and proximal articulation.
Breese .....	Left thumb amputated at metacarpal Phalangeal articulation; left first finger badly lacerated.
Almay .....	Hand cut; 10 days.

260      Ingalls Stone Company, Stone Constructors.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Davis .....	Left arm sprained; chin bruised.
Hancock .....	Finger mashed.
Henderson .....	Great toe mashed.
Spear .....	Skinned right side of body.
Adams .....	Mashed large toe.
Eade .....	Piece of steel in eye.
Vaught .....	Right kidney torn loose.
Reed .....	Head cut and leg bruised and one rib broken; 31 days.
King .....	Both legs bruised; 13 days.
Woodward .....	Toe mashed severely; 17 days.
Ira .....	Ribs broken and bruised, generally.

261      Aetna Explosives Company, Manufacturers of Explosives.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Stell .....	Head, arms, shoulders and legs burned.
Bupp .....	Burned about forehead, ears, eyes and chin.
Mangoulis .....	Burn of right eye.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Rushing .....	Overcome by chlorine gas.
Scott .....	Burns on left elbow and left hand.
Landreth .....	Slight burns about face.
Gerez .....	Bruises and contusion of back; 6 days.
Crisman .....	Burns about face.
Luszez .....	Burned about eyes.
Barko .....	Burned in left eye.
Ale .....	Left testicle swollen; marked evidence of hernia.
Anderson .....	Burned about eyes.
Dibrickson .....	Right eye burned.
Meeks .....	Burned face and hands.
Warhop .....	Burned back of right leg below knee, and heel of right foot.
Stecz .....	Acid in eye and burned about left side of face.
Gautier .....	First degree burn of right thigh.
262 Harrison .....	Burned about face, right arm and chest.
Johnson .....	Piece of emory wheel flew off into eye.
Shaneberger .....	First and second degree burns on forehead, right arm and chest.
Gabrill .....	First and 2nd degree burn of chest; splashes of acid on right arm.
Burdick .....	2nd degree burn on arm; first degree burn on chest and small area on forehead.
Hill .....	Bruises and contusions of both feet, especially the right foot.
Kemple .....	First and second degree burn of chest, arms and face.
Miskunas .....	Burn of right eye; burn on lids of left eye; acid splash in eyes.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Thayer .....	First and 2nd degree burns of forehead, nose, right ear, chest and right thigh.
Shaneberger .....	2 lacerations on left foot about ankle, one requiring 2 stitches and the other requiring 3 stitches.
Cervantes .....	Burned about upper face, first and 2nd degree.
Padilla .....	Burned about face.
Hays .....	Burned about face.
Grass .....	First and second degree burn of left arm and left side of body to knee.
263 Mandelker .....	Both eyes burned.
Berg .....	Burned about face, arms and chest.
Kelly .....	Second degree scalds of back, thigh, left leg below knee and left hand.
Moon .....	Fracture of second phalanx of first toe left foot; fracture of first phalanx of 2nd toe left foot, and bruise of upper part of left foot.
Georgevich .....	Burn on face and left ear.
Gregory .....	Badly sprained right ankle; contusions on both knees and right legs; small laceration on forehead. X-ray shows fractured third metatarsal bone.
Miller .....	Acid burns about lids of both eyes; left eye burned slightly and small burns about forehead.
Norris .....	Electrical shock causing instant death.

## 264 Indiana Quarries Company, Stone Quarry.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Anauttes .....	Breast bruised.
Hays .....	Eyes burned.
Blinegar .....	Left knee bruised.
Queen .....	Right hand bruised; 23 days.
Anderson .....	Left ankle and foot sprained; 14 3/7 weeks.
McPheters .....	Cut and burn of toe; 11 days.
Owens .....	Left shoulder bruised; 3 4/7 weeks.
Gray .....	Right ankle sprained; 100 days.
Gleason .....	Sprained right knee; 12 days.

## 265 Caldwell-Marshall Company, Jeffersonville, Indiana.

(Contractors.)

Name of employee.	Character of injury, extent of disability, or compensation granted.
Mack .....	Contusion of 7th and 8th ribs on right side with development of traumatic pleurisy.
Haggard .....	Foot mashed and leg below knee skinned
Alexander .....	Bruised muscles of back.
Richard .....	Middle finger of left hand mashed.
Norman .....	Sprined back.
McEwen .....	Bruise and straight cut on top of right foot; probably fracture of metatarsal bone; 25 days.
McCain .....	Finger cut off.
Mills .....	Fracture of radius in middle third, about four or four and a half above right wrist joint of left arm; 56 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Jordan	Bruised muscles in right hip; 19 days.
Missi	Left hand injured.
Dorsey	Bruised back; left ankle sprained; left hip lacerated and bruised.
Wilson	Scratched right leg; muscles bruised; 27 days.
Bennett	Nail stuck in wrist; 21 days.
266 Ganstein	Mashed foot; 17 days.
Harris	Mashed finger; finger nail pulled out; 16 days.
Steidinger	Fractured metatarsal bone; 57 days.
Dahringer	Oblique fracture of middle metacarpal bone of left hand, with small piece of bone broken off and free in soft tissues.
Martiena	Lacerated wound of second and third fingers of left hand; 55 days.
Rowen	Fracture of metatarsal bones on right foot, with contusion of dorsal surface of right foot; 71 days.

267 Wood Mosaic Company, Vencer Manufacturers.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Venable	Fractured ribs and broke another rib loose from breast bone; the latter torn loose again Feb. 14.
Pelluan	Contusion and strain of muscles of right side of chest and abdomen.
Murphy	Overcome from heat.
McGuire	Wrenched ligaments of knee.
Colder	Severe sprain of right knee.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Yaggie .....	Foot mashed and bruised.
Budd .....	Wrenched back.
Freeman .....	First and second toes of left foot lacerated.
Jackson .....	Toe on left foot mashed; 13 days.
Frederick .....	Lacerated wound on ball of thumb and end of first finger of right hand; 19 days.
Martin .....	Cut shin to bone; 14 days.
Buck .....	Hernia; 4 months.
Donahue .....	Cut first finger on left hand; slip at end, to bone.
Young .....	First finger of left hand badly mashed below first joint; will probably have to be amputated; 1 month.
268 Salmon .....	Cut ball of right thumb; 2 weeks.
McCombs .....	Cut first finger on left hand; 1 month 3 days.
Pruit .....	Split first and second fingers on right hand; 2 week 3 days.
Spry .....	Ligament torn loose and shoulder bruised; 7 weeks.
Rakestraw .....	Foot pinched and sprained; 29 days.
McGuire .....	Wrenched ligaments in knee; 9 days.
Dennison .....	Injured back and right side; simple fracture of 10th rib; 3 weeks.
Donahue .....	Cut off tip of right thumb; 3 weeks and 4 days.
Dovasha .....	Punctured wound ring finger of left hand; 118 days.
Manta .....	Right side of both arms burned; 14 days.
Wolen .....	Cut finger; 14 days.

Name of employee.	Character of injury, extent of disability, or compensation granted.
Donahue .....	Cut all four fingers across back; 3 weeks and 1 day.
Miller .....	Cut 2nd and 3rd fingers on left hand through bone; 2nd finger cut just below nail; 3rd finger cut between first and second joint; 5 weeks and 5 days.
269 Wolf .....	Bruised hip; 2 weeks.
Erdman .....	Split left thumb; 7 weeks.
Budd .....	Both bones of left leg broken below knee; 124 days.
Buckheit .....	Finger badly mashed.
Wolfe .....	Cut 2nd finger of left hand very badly; amputation necessary of finger at 3rd joint; 30 weeks.
Williams .....	First finger of left hand cut very badly; amputation necessary; back of second finger also cut; 25 weeks.
Guildemaus .....	1st and 2nd fingers of left hand badly cut; 30 weeks.
Sands .....	Left leg bruised below knee; 2 weeks.
Thomas .....	Spli. little finger of left hand; 31 days.

The above condensed statement of the evidence is true, complete and correct and is hereby approved this 7th day of October, 1919.

ALBERT B. ANDERSON,

*Judge.*

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*Citation.*

THE UNITED STATES OF AMERICA, *vs.*:

To Industrial Board of Indiana, Edgar A. Perkins, Kenneth L. Dresser, and Samuel R. Artman, as Members of the Industrial Board of Indiana; Edgar A. Perkins, Kenneth L. Dresser and Samuel R. Artman:

Whereas, Lower Vein Coal Company has lately appealed to the Supreme Court of the United States from a decree and judgment lately rendered in the District Court of the United States for the District



of Indiana, made and entered in favor of you, and has filed the receipt required by law.

You are therefore cited to appear before the said Supreme Court at the City of Washington, District of Columbia, on the 25th day of October, 1919, next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand this 29th day of September, A. D. 1919.

ALBERT B. ANDERSON,  
*Judge.*

Service of the above citation is admitted and the receipt of a copy thereof acknowledged this 29th day of September, 1919.

ELE STANSBURY,  
*Attorney General of Indiana,  
Solicitor for Defendants.*

271 In the District Court of the United States for the District of Indiana.

I, Noble C. Butler, Clerk of the District Court of the United States for the District of Indiana, do hereby certify that the above and foregoing is a full, true and complete transcript of the record according to the precept in the case of Lower Vein Coal Company vs. Industrial Board of Indiana, et al., as the same appears of record in my office.

Witness my hand and the seal of said Court, at Indianapolis, in said District, this 11th day of October, 1919.

[Seal District Court of the United States, District of Indiana.]

NOBLE C. BUTLER,  
*Clerk.*

Endorsed on cover: File No. 27,328. Indiana D. C. U. S. Term No. 573. Lower Vein Coal Company, appellant, vs. Industrial Board of Indiana et al. Filed October 16th, 1919. File No. 27,328.